

SB1821



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1821

Introduced 2/9/2017, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Repeals the Genetic Counselor Licensing Act, the Illinois Landscape Architecture Act of 1989, the Illinois Athlete Agents Act, the Electrologist Licensing Act, the Detection of Deception Examiners Act, the Professional Geologist Licensing Act, the Land Sales Registration Act of 1999, and the Real Estate Timeshare Act of 1999. Makes conforming changes in the Regulatory Sunset Act and throughout the statutes. Amends the Auction License Act. Repeals provisions requiring Internet auction listing services to be registered with the Department of Financial and Professional Regulation and makes conforming changes. Moves definitions of "Internet auction listing service" and "interactive computer service" to provisions concerning definitions. Effective immediately.

LRB100 09678 SMS 19847 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Sections 4.30, 4.32, 4.34, and 4.36 as follows:

6 (5 ILCS 80/4.30)

7 Sec. 4.30. Acts repealed on January 1, 2020. The following
8 Acts are repealed on January 1, 2020:

9 The Auction License Act.

10 The Community Association Manager Licensing and
11 Disciplinary Act.

12 The Illinois Architecture Practice Act of 1989.

13 ~~The Illinois Landscape Architecture Act of 1989.~~

14 The Illinois Professional Land Surveyor Act of 1989.

15 ~~The Land Sales Registration Act of 1999.~~

16 The Orthotics, Prosthetics, and Pedorthics Practice Act.

17 The Perfusionist Practice Act.

18 The Professional Engineering Practice Act of 1989.

19 The Real Estate License Act of 2000.

20 The Structural Engineering Practice Act of 1989.

21 (Source: P.A. 96-610, eff. 8-24-09; 96-626, eff. 8-24-09;

22 96-682, eff. 8-25-09; 96-726, eff. 7-1-10; 96-730, eff.

23 8-25-09; 96-855, eff. 12-31-09; 96-856, eff. 12-31-09;

1 96-1000, eff. 7-2-10.)

2 (5 ILCS 80/4.32)

3 Sec. 4.32. Acts repealed on January 1, 2022. The following
4 Acts are repealed on January 1, 2022:

5 The Boxing and Full-contact Martial Arts Act.

6 The Collateral Recovery Act.

7 ~~The Detection of Deception Examiners Act.~~

8 The Home Inspector License Act.

9 The Interior Design Title Act.

10 The Massage Licensing Act.

11 The Petroleum Equipment Contractors Licensing Act.

12 The Real Estate Appraiser Licensing Act of 2002.

13 The Water Well and Pump Installation Contractor's License
14 Act.

15 (Source: P.A. 97-24, eff. 6-28-11; 97-119, eff. 7-14-11;
16 97-168, eff. 7-22-11; 97-226, eff. 7-28-11; 97-428, eff.
17 8-16-11; 97-514, eff. 8-23-11; 97-576, eff. 7-1-12; 97-598,
18 eff. 8-26-11; 97-602, eff. 8-26-11; 97-813, eff. 7-13-12.)

19 (5 ILCS 80/4.34)

20 Sec. 4.34. Acts and Section repealed on January 1, 2024.
21 The following Acts and Section of an Act are repealed on
22 January 1, 2024:

23 ~~The Electrologist Licensing Act.~~

24 The Illinois Certified Shorthand Reporters Act of

1 1984.

2 The Illinois Occupational Therapy Practice Act.

3 The Illinois Public Accounting Act.

4 The Private Detective, Private Alarm, Private
5 Security, Fingerprint Vendor, and Locksmith Act of 2004.

6 The Registered Surgical Assistant and Registered
7 Surgical Technologist Title Protection Act.

8 Section 2.5 of the Illinois Plumbing License Law.

9 The Veterinary Medicine and Surgery Practice Act of
10 2004.

11 (Source: P.A. 98-140, eff. 12-31-13; 98-253, eff. 8-9-13;
12 98-254, eff. 8-9-13; 98-264, eff. 12-31-13; 98-339, eff.
13 12-31-13; 98-363, eff. 8-16-13; 98-364, eff. 12-31-13; 98-445,
14 eff. 12-31-13; 98-756, eff. 7-16-14.)

15 (5 ILCS 80/4.36)

16 Sec. 4.36. Acts repealed on January 1, 2026. The following
17 Acts are repealed on January 1, 2026:

18 The Barber, Cosmetology, Esthetics, Hair Braiding, and
19 Nail Technology Act of 1985.

20 The Collection Agency Act.

21 The Hearing Instrument Consumer Protection Act.

22 The Illinois Athletic Trainers Practice Act.

23 The Illinois Dental Practice Act.

24 The Illinois Roofing Industry Licensing Act.

25 The Illinois Physical Therapy Act.

1 ~~The Professional Geologist Licensing Act.~~

2 The Respiratory Care Practice Act.

3 (Source: P.A. 99-26, eff. 7-10-15; 99-204, eff. 7-30-15;
4 99-227, eff. 8-3-15; 99-229, eff. 8-3-15; 99-230, eff. 8-3-15;
5 99-427, eff. 8-21-15; 99-469, eff. 8-26-15; 99-492, eff.
6 12-31-15; 99-642, eff. 7-28-16.)

7 (5 ILCS 80/4.35 rep.)

8 Section 10. The Regulatory Sunset Act is amended by
9 repealing Section 4.35.

10 Section 15. The Park District Code is amended by changing
11 Section 8-50 as follows:

12 (70 ILCS 1205/8-50)

13 Sec. 8-50. Definitions. For the purposes of Sections 8-50
14 through 8-57, the following terms shall have the following
15 meanings, unless the context requires a different meaning:

16 "Delivery system" means the design and construction
17 approach used to develop and construct a project.

18 "Design-bid-build" means the traditional delivery system
19 used on public projects that incorporates the Local Government
20 Professional Services Selection Act and the principles of
21 competitive selection.

22 "Design-build" means a delivery system that provides
23 responsibility within a single contract for the furnishing of

1 architecture, engineering, land surveying, and related
2 services as required, and the labor, materials, equipment, and
3 other construction services for the project.

4 "Design-build contract" means a contract for a public
5 project under this Act between any park district and a
6 design-build entity to furnish architecture, engineering, land
7 surveying, landscape architecture, and related services as
8 required, and to furnish the labor, materials, equipment, and
9 other construction services for the project. The design-build
10 contract may be conditioned upon subsequent refinements in
11 scope and price and may allow the park district to make
12 modifications in the project scope without invalidating the
13 design-build contract.

14 "Design-build entity" means any individual, sole
15 proprietorship, firm, partnership, joint venture, corporation,
16 professional corporation, or other entity that proposes to
17 design and construct any public project under this Act. A
18 design-build entity and associated design-build professionals
19 shall conduct themselves in accordance with the laws of this
20 State and the related provisions of the Illinois Administrative
21 Code, as referenced by the licensed design professionals Acts
22 of this State.

23 "Design professional" means any individual, sole
24 proprietorship, firm, partnership, joint venture, corporation,
25 professional corporation, or other entity that offers services
26 under the Illinois Architecture Practice Act of 1989, the

1 Professional Engineering Practice Act of 1989, the Structural
2 Engineering Practice Act of 1989, or the Illinois Professional
3 Land Surveyor Act of 1989.

4 "Evaluation criteria" means the requirements for the
5 separate phases of the selection process for design-build
6 proposals as defined in this Act and may include the
7 specialized experience, technical qualifications and
8 competence, capacity to perform, past performance, experience
9 with similar projects, assignment of personnel to the project,
10 and other appropriate factors. Price may not be used as a
11 factor in the evaluation of Phase I proposals.

12 "Landscape architect design professional" means any
13 person, sole proprietorship, or entity including, but not
14 limited to, a partnership, professional service corporation,
15 or corporation that offers landscape architecture services
16 ~~under the Illinois Landscape Architecture Act of 1989.~~

17 "Proposal" means the offer to enter into a design-build
18 contract as submitted by a design-build entity in accordance
19 with this Act.

20 "Request for proposal" means the document used by the park
21 district to solicit proposals for a design-build contract.

22 "Scope and performance criteria" means the requirements
23 for the public project, including, but not limited to: the
24 intended usage, capacity, size, scope, quality, and
25 performance standards; life-cycle costs; and other
26 programmatic criteria that are expressed in performance

1 oriented and quantifiable specifications and drawings that can
2 be reasonably inferred and are suited to allow a design-build
3 entity to develop a proposal.

4 (Source: P.A. 97-349, eff. 8-12-11.)

5 Section 20. The Chicago Park District Act is amended by
6 changing Section 26.10-4 as follows:

7 (70 ILCS 1505/26.10-4)

8 Sec. 26.10-4. Definitions. The following terms, whenever
9 used or referred to in this Act, have the following meaning
10 unless the context requires a different meaning:

11 "Delivery system" means the design and construction
12 approach used to develop and construct a project.

13 "Design-bid-build" means the traditional delivery system
14 used on public projects that incorporates the Local Government
15 Professional Services Selection Act (50 ILCS 510/) and the
16 principles of competitive selection.

17 "Design-build" means a delivery system that provides
18 responsibility within a single contract for the furnishing of
19 architecture, engineering, land surveying and related services
20 as required, and the labor, materials, equipment, and other
21 construction services for the project.

22 "Design-build contract" means a contract for a public
23 project under this Act between the Chicago Park District and a
24 design-build entity to furnish architecture, engineering, land

1 surveying, landscape architecture, and related services as
2 required, and to furnish the labor, materials, equipment, and
3 other construction services for the project. The design-build
4 contract may be conditioned upon subsequent refinements in
5 scope and price and may allow the Chicago Park District to make
6 modifications in the project scope without invalidating the
7 design-build contract.

8 "Design-build entity" means any individual, sole
9 proprietorship, firm, partnership, joint venture, corporation,
10 professional corporation, or other entity that proposes to
11 design and construct any public project under this Act. A
12 design-build entity and associated design-build professionals
13 shall conduct themselves in accordance with the laws of this
14 State and the related provisions of the Illinois Administrative
15 Code, as referenced by the licensed design professionals Acts
16 of this State.

17 "Design professional" means any individual, sole
18 proprietorship, firm, partnership, joint venture, corporation,
19 professional corporation, or other entity that offers services
20 under the Illinois Architecture Practice Act of 1989 (225 ILCS
21 305/), the Professional Engineering Practice Act of 1989 (225
22 ILCS 325/), the Structural Engineering Practice Act of 1989
23 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act
24 of 1989 (225 ILCS 330/).

25 "Landscape architect design professional" means any
26 person, sole proprietorship, or entity such as a partnership,

1 professional service corporation, or corporation that offers
2 landscape architecture services ~~under the Illinois Landscape~~
3 ~~Architecture Act of 1989.~~

4 "Evaluation criteria" means the requirements for the
5 separate phases of the selection process for design-build
6 proposals as defined in this Act and may include the
7 specialized experience, technical qualifications and
8 competence, capacity to perform, past performance, experience
9 with similar projects, assignment of personnel to the project,
10 and other appropriate factors. Price may not be used as a
11 factor in the evaluation of Phase I proposals.

12 "Proposal" means the offer to enter into a design-build
13 contract as submitted by a design-build entity in accordance
14 with this Act.

15 "Request for proposal" means the document used by the
16 Chicago Park District to solicit proposals for a design-build
17 contract.

18 "Scope and performance criteria" means the requirements
19 for the public project, including but not limited to, the
20 intended usage, capacity, size, scope, quality and performance
21 standards, life-cycle costs, and other programmatic criteria
22 that are expressed in performance-oriented and quantifiable
23 specifications and drawings that can be reasonably inferred and
24 are suited to allow a design-build entity to develop a
25 proposal.

26 "Guaranteed maximum price" means a form of contract in

1 which compensation may vary according to the scope of work
2 involved but in any case may not exceed an agreed total amount.
3 (Source: P.A. 96-777, eff. 8-28-09; 96-1000, eff. 7-2-10.)

4 Section 25. The Illinois Clinical Laboratory and Blood Bank
5 Act is amended by changing Section 7-101 as follows:

6 (210 ILCS 25/7-101) (from Ch. 111 1/2, par. 627-101)

7 Sec. 7-101. Examination of specimens. A clinical
8 laboratory shall examine specimens only at the request of (i) a
9 licensed physician, (ii) a licensed dentist, (iii) a licensed
10 podiatric physician, (iv) a licensed optometrist, (v) a
11 licensed physician assistant, (v-A) a licensed advanced
12 practice nurse, (vi) an authorized law enforcement agency or,
13 in the case of blood alcohol, at the request of the individual
14 for whom the test is to be performed in compliance with
15 Sections 11-501 and 11-501.1 of the Illinois Vehicle Code, or
16 (vii) a genetic counselor ~~with the specific authority from a~~
17 ~~referral to order a test or tests pursuant to subsection (b) of~~
18 ~~Section 20 of the Genetic Counselor Licensing Act.~~ If the
19 request to a laboratory is oral, the physician or other
20 authorized person shall submit a written request to the
21 laboratory within 48 hours. If the laboratory does not receive
22 the written request within that period, it shall note that fact
23 in its records. For purposes of this Section, a request made by
24 electronic mail or fax constitutes a written request.

1 (Source: P.A. 98-185, eff. 1-1-14; 98-214, eff. 8-9-13; 98-756,
2 eff. 7-16-14; 98-767, eff. 1-1-15; 99-173, eff. 7-29-15.)

3 (225 ILCS 135/Act rep.)

4 Section 30. The Genetic Counselor Licensing Act is
5 repealed.

6 (225 ILCS 315/Act rep.)

7 Section 35. The Illinois Landscape Architecture Act of 1989
8 is repealed.

9 (225 ILCS 401/Act rep.)

10 Section 40. The Illinois Athlete Agents Act is repealed.

11 Section 45. The Auction License Act is amended by changing
12 Sections 5-10 and 10-1 as follows:

13 (225 ILCS 407/5-10)

14 (Section scheduled to be repealed on January 1, 2020)

15 Sec. 5-10. Definitions. As used in this Act:

16 "Advertisement" means any written, oral, or electronic
17 communication that contains a promotion, inducement, or offer
18 to conduct an auction or offer to provide an auction service,
19 including but not limited to brochures, pamphlets, radio and
20 television scripts, telephone and direct mail solicitations,
21 electronic media, and other means of promotion.

1 "Advisory Board" or "Board" means the Auctioneer Advisory
2 Board.

3 "Associate auctioneer" means a person who conducts an
4 auction, but who is under the direct supervision of, and is
5 sponsored by, a licensed auctioneer or auction firm.

6 "Auction" means the sale or lease of property, real or
7 personal, by means of exchanges between an auctioneer and
8 prospective purchasers or lessees, which consists of a series
9 of invitations for offers made by the auctioneer and offers by
10 prospective purchasers or lessees for the purpose of obtaining
11 an acceptable offer for the sale or lease of the property,
12 including the sale or lease of property via mail,
13 telecommunications, or the Internet.

14 "Auction contract" means a written agreement between an
15 auctioneer or auction firm and a seller or sellers.

16 "Auction firm" means any corporation, partnership, or
17 limited liability company that acts as an auctioneer and
18 provides an auction service.

19 "Auction school" means any educational institution, public
20 or private, which offers a curriculum of auctioneer education
21 and training approved by the Department.

22 "Auction service" means the service of arranging,
23 managing, advertising, or conducting auctions.

24 "Auctioneer" means a person or entity who, for another, for
25 a fee, compensation, commission, or any other valuable
26 consideration at auction or with the intention or expectation

1 of receiving valuable consideration by the means of or process
2 of an auction or sale at auction or providing an auction
3 service, offers, negotiates, or attempts to negotiate an
4 auction contract, sale, purchase, or exchange of goods,
5 chattels, merchandise, personal property, real property, or
6 any commodity that may be lawfully kept or offered for sale by
7 or at auction.

8 "Address of Record" means the designated address recorded
9 by the Department in the applicant's or licensee's application
10 file or license file maintained by the Department. It is the
11 duty of the applicant or licensee to inform the Department of
12 any change of address, and such changes must be made either
13 through the Department's website or by directly contacting the
14 Department.

15 "Buyer premium" means any fee or compensation paid by the
16 successful purchaser of property sold or leased at or by
17 auction, to the auctioneer, auction firms, seller, lessor, or
18 other party to the transaction, other than the purchase price.

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Goods" means chattels, movable goods, merchandise, or
22 personal property or commodities of any form or type that may
23 be lawfully kept or offered for sale.

24 "Interactive computer service" means any information
25 service, system, or access software provider that provides or
26 enables computer access by multiple users to a computer server,

1 including specifically a service or system that provides access
2 to the Internet.

3 "Internet auction listing service" means a website on the
4 Internet, or other interactive computer service, that is
5 designed to allow or advertise as a means of allowing users to
6 offer personal property or services for sale or lease to a
7 prospective buyer or lessee through an on-line bid submission
8 process using that website or interactive computer service and
9 that does not examine, set the price, prepare the description
10 of the personal property or service to be offered, or in any
11 way utilize the services of a natural person as an auctioneer.

12 "Licensee" means any person licensed under this Act.

13 "Managing auctioneer" means any person licensed as an
14 auctioneer who manages and supervises licensees sponsored by an
15 auction firm or auctioneer.

16 "Person" means an individual, association, partnership,
17 corporation, or limited liability company or the officers,
18 directors, or employees of the same.

19 "Pre-renewal period" means the 24 months prior to the
20 expiration date of a license issued under this Act.

21 "Real estate" means real estate as defined in Section 1-10
22 of the Real Estate License Act of 2000 or its successor Acts.

23 "Secretary" means the Secretary of the Department of
24 Financial and Professional Regulation or his or her designee.

25 "Sponsoring auctioneer" means the auctioneer or auction
26 firm who has issued a sponsor card to a licensed auctioneer.

1 "Sponsor card" means the temporary permit issued by the
2 sponsoring auctioneer certifying that the licensee named
3 thereon is employed by or associated with the sponsoring
4 auctioneer and the sponsoring auctioneer shall be responsible
5 for the actions of the sponsored licensee.

6 (Source: P.A. 98-553, eff. 1-1-14.)

7 (225 ILCS 407/10-1)

8 (Section scheduled to be repealed on January 1, 2020)

9 Sec. 10-1. Necessity of license; exemptions.

10 (a) It is unlawful for any person, corporation, limited
11 liability company, partnership, or other entity to conduct an
12 auction, provide an auction service, hold himself or herself
13 out as an auctioneer, or advertise his or her services as an
14 auctioneer in the State of Illinois without a license issued by
15 the Department under this Act, except at:

16 (1) an auction conducted solely by or for a
17 not-for-profit organization for charitable purposes in
18 which the individual receives no compensation;

19 (2) an auction conducted by the owner of the property,
20 real or personal;

21 (3) an auction for the sale or lease of real property
22 conducted by a licensee under the Real Estate License Act,
23 or its successor Acts, in accordance with the terms of that
24 Act;

25 (4) an auction conducted by a business registered as a

1 market agency under the federal Packers and Stockyards Act
2 (7 U.S.C. 181 et seq.) or under the Livestock Auction
3 Market Law;

4 (5) an auction conducted by an agent, officer, or
5 employee of a federal agency in the conduct of his or her
6 official duties; and

7 (6) an auction conducted by an agent, officer, or
8 employee of the State government or any political
9 subdivision thereof performing his or her official duties.

10 (b) Nothing in this Act shall be construed to apply to a
11 new or used vehicle dealer or a vehicle auctioneer licensed by
12 the Secretary of State of Illinois, or to any employee of the
13 licensee, who is a resident of the State of Illinois, while the
14 employee is acting in the regular scope of his or her
15 employment for the licensee while conducting an auction that is
16 not open to the public, provided that only new or used vehicle
17 dealers, rebuilders, automotive parts recyclers, or scrap
18 processors licensed by the Secretary of State or licensed by
19 another state or jurisdiction may buy property at the auction,
20 or to sales by or through the licensee. Out-of-state salvage
21 vehicle buyers licensed in another state or jurisdiction may
22 also buy property at the auction.

23 (c) Nothing in this Act shall be construed to prohibit a
24 person under the age of 18 from selling property under \$250 in
25 value while under the direct supervision of a licensed
26 auctioneer.

1 (d) Nothing in this Act, ~~except Section 10-27,~~ shall be
2 construed to apply to a person ~~while~~ providing an Internet
3 auction listing service as defined in Section 5-10 ~~10-27~~.
4 (Source: P.A. 95-572, eff. 6-1-08; 95-783, eff. 1-1-09; 96-730,
5 eff. 8-25-09.)

6 (225 ILCS 407/10-27 rep.)

7 Section 50. The Auction License Act is amended by repealing
8 Section 10-27.

9 (225 ILCS 412/Act rep.)

10 Section 55. The Electrologist Licensing Act is repealed.

11 (225 ILCS 430/Act rep.)

12 Section 60. The Detection of Deception Examiners Act is
13 repealed.

14 Section 65. The Real Estate License Act of 2000 is amended
15 by changing Sections 1-10, 5-20, 20-20, and 20-85 as follows:

16 (225 ILCS 454/1-10)

17 (Section scheduled to be repealed on January 1, 2020)

18 Sec. 1-10. Definitions. In this Act, unless the context
19 otherwise requires:

20 "Act" means the Real Estate License Act of 2000.

21 "Address of record" means the designated address recorded

1 by the Department in the applicant's or licensee's application
2 file or license file as maintained by the Department's
3 licensure maintenance unit. It is the duty of the applicant or
4 licensee to inform the Department of any change of address, and
5 those changes must be made either through the Department's
6 website or by contacting the Department.

7 "Advisory Council" means the Real Estate Education
8 Advisory Council created under Section 30-10 of this Act.

9 "Agency" means a relationship in which a broker or
10 licensee, whether directly or through an affiliated licensee,
11 represents a consumer by the consumer's consent, whether
12 express or implied, in a real property transaction.

13 "Applicant" means any person, as defined in this Section,
14 who applies to the Department for a valid license as a managing
15 broker, broker, or leasing agent.

16 "Blind advertisement" means any real estate advertisement
17 that does not include the sponsoring broker's business name and
18 that is used by any licensee regarding the sale or lease of
19 real estate, including his or her own, licensed activities, or
20 the hiring of any licensee under this Act. The broker's
21 business name in the case of a franchise shall include the
22 franchise affiliation as well as the name of the individual
23 firm.

24 "Board" means the Real Estate Administration and
25 Disciplinary Board of the Department as created by Section
26 25-10 of this Act.

1 "Branch office" means a sponsoring broker's office other
2 than the sponsoring broker's principal office.

3 "Broker" means an individual, partnership, limited
4 liability company, corporation, or registered limited
5 liability partnership other than a leasing agent who, whether
6 in person or through any media or technology, for another and
7 for compensation, or with the intention or expectation of
8 receiving compensation, either directly or indirectly:

9 (1) Sells, exchanges, purchases, rents, or leases real
10 estate.

11 (2) Offers to sell, exchange, purchase, rent, or lease
12 real estate.

13 (3) Negotiates, offers, attempts, or agrees to
14 negotiate the sale, exchange, purchase, rental, or leasing
15 of real estate.

16 (4) Lists, offers, attempts, or agrees to list real
17 estate for sale, rent, lease, or exchange.

18 (5) Buys, sells, offers to buy or sell, or otherwise
19 deals in options on real estate or improvements thereon.

20 (6) Supervises the collection, offer, attempt, or
21 agreement to collect rent for the use of real estate.

22 (7) Advertises or represents himself or herself as
23 being engaged in the business of buying, selling,
24 exchanging, renting, or leasing real estate.

25 (8) Assists or directs in procuring or referring of
26 leads or prospects, intended to result in the sale,

1 exchange, lease, or rental of real estate.

2 (9) Assists or directs in the negotiation of any
3 transaction intended to result in the sale, exchange,
4 lease, or rental of real estate.

5 (10) Opens real estate to the public for marketing
6 purposes.

7 (11) Sells, rents, leases, or offers for sale or lease
8 real estate at auction.

9 (12) Prepares or provides a broker price opinion or
10 comparative market analysis as those terms are defined in
11 this Act, pursuant to the provisions of Section 10-45 of
12 this Act.

13 "Brokerage agreement" means a written or oral agreement
14 between a sponsoring broker and a consumer for licensed
15 activities to be provided to a consumer in return for
16 compensation or the right to receive compensation from another.
17 Brokerage agreements may constitute either a bilateral or a
18 unilateral agreement between the broker and the broker's client
19 depending upon the content of the brokerage agreement. All
20 exclusive brokerage agreements shall be in writing.

21 "Broker price opinion" means an estimate or analysis of the
22 probable selling price of a particular interest in real estate,
23 which may provide a varying level of detail about the
24 property's condition, market, and neighborhood and information
25 on comparable sales. The activities of a real estate broker or
26 managing broker engaging in the ordinary course of business as

1 a broker, as defined in this Section, shall not be considered a
2 broker price opinion if no compensation is paid to the broker
3 or managing broker, other than compensation based upon the sale
4 or rental of real estate.

5 "Client" means a person who is being represented by a
6 licensee.

7 "Comparative market analysis" is an analysis or opinion
8 regarding pricing, marketing, or financial aspects relating to
9 a specified interest or interests in real estate that may be
10 based upon an analysis of comparative market data, the
11 expertise of the real estate broker or managing broker, and
12 such other factors as the broker or managing broker may deem
13 appropriate in developing or preparing such analysis or
14 opinion. The activities of a real estate broker or managing
15 broker engaging in the ordinary course of business as a broker,
16 as defined in this Section, shall not be considered a
17 comparative market analysis if no compensation is paid to the
18 broker or managing broker, other than compensation based upon
19 the sale or rental of real estate.

20 "Compensation" means the valuable consideration given by
21 one person or entity to another person or entity in exchange
22 for the performance of some activity or service. Compensation
23 shall include the transfer of valuable consideration,
24 including without limitation the following:

25 (1) commissions;

26 (2) referral fees;

- 1 (3) bonuses;
- 2 (4) prizes;
- 3 (5) merchandise;
- 4 (6) finder fees;
- 5 (7) performance of services;
- 6 (8) coupons or gift certificates;
- 7 (9) discounts;
- 8 (10) rebates;
- 9 (11) a chance to win a raffle, drawing, lottery, or
- 10 similar game of chance not prohibited by any other law or
- 11 statute;
- 12 (12) retainer fee; or
- 13 (13) salary.

14 "Confidential information" means information obtained by a
15 licensee from a client during the term of a brokerage agreement
16 that (i) was made confidential by the written request or
17 written instruction of the client, (ii) deals with the
18 negotiating position of the client, or (iii) is information the
19 disclosure of which could materially harm the negotiating
20 position of the client, unless at any time:

- 21 (1) the client permits the disclosure of information
- 22 given by that client by word or conduct;
- 23 (2) the disclosure is required by law; or
- 24 (3) the information becomes public from a source other
- 25 than the licensee.

26 "Confidential information" shall not be considered to

1 include material information about the physical condition of
2 the property.

3 "Consumer" means a person or entity seeking or receiving
4 licensed activities.

5 "Continuing education school" means any person licensed by
6 the Department as a school for continuing education in
7 accordance with Section 30-15 of this Act.

8 "Coordinator" means the Coordinator of Real Estate created
9 in Section 25-15 of this Act.

10 "Credit hour" means 50 minutes of classroom instruction in
11 course work that meets the requirements set forth in rules
12 adopted by the Department.

13 "Customer" means a consumer who is not being represented by
14 the licensee but for whom the licensee is performing
15 ministerial acts.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Designated agency" means a contractual relationship
19 between a sponsoring broker and a client under Section 15-50 of
20 this Act in which one or more licensees associated with or
21 employed by the broker are designated as agent of the client.

22 "Designated agent" means a sponsored licensee named by a
23 sponsoring broker as the legal agent of a client, as provided
24 for in Section 15-50 of this Act.

25 "Dual agency" means an agency relationship in which a
26 licensee is representing both buyer and seller or both landlord

1 and tenant in the same transaction. When the agency
2 relationship is a designated agency, the question of whether
3 there is a dual agency shall be determined by the agency
4 relationships of the designated agent of the parties and not of
5 the sponsoring broker.

6 "Employee" or other derivative of the word "employee", when
7 used to refer to, describe, or delineate the relationship
8 between a sponsoring broker and a managing broker, broker, or a
9 leasing agent, shall be construed to include an independent
10 contractor relationship, provided that a written agreement
11 exists that clearly establishes and states the relationship.
12 All responsibilities of a broker shall remain.

13 "Escrow moneys" means all moneys, promissory notes or any
14 other type or manner of legal tender or financial consideration
15 deposited with any person for the benefit of the parties to the
16 transaction. A transaction exists once an agreement has been
17 reached and an accepted real estate contract signed or lease
18 agreed to by the parties. Escrow moneys includes without
19 limitation earnest moneys and security deposits, except those
20 security deposits in which the person holding the security
21 deposit is also the sole owner of the property being leased and
22 for which the security deposit is being held.

23 "Electronic means of proctoring" means a methodology
24 providing assurance that the person taking a test and
25 completing the answers to questions is the person seeking
26 licensure or credit for continuing education and is doing so

1 without the aid of a third party or other device.

2 "Exclusive brokerage agreement" means a written brokerage
3 agreement that provides that the sponsoring broker has the sole
4 right, through one or more sponsored licensees, to act as the
5 exclusive designated agent or representative of the client and
6 that meets the requirements of Section 15-75 of this Act.

7 "Inoperative" means a status of licensure where the
8 licensee holds a current license under this Act, but the
9 licensee is prohibited from engaging in licensed activities
10 because the licensee is unsponsored or the license of the
11 sponsoring broker with whom the licensee is associated or by
12 whom he or she is employed is currently expired, revoked,
13 suspended, or otherwise rendered invalid under this Act.

14 "Interactive delivery method" means delivery of a course by
15 an instructor through a medium allowing for 2-way communication
16 between the instructor and a student in which either can
17 initiate or respond to questions.

18 "Leads" means the name or names of a potential buyer,
19 seller, lessor, lessee, or client of a licensee.

20 "Leasing Agent" means a person who is employed by a broker
21 to engage in licensed activities limited to leasing residential
22 real estate who has obtained a license as provided for in
23 Section 5-5 of this Act.

24 "License" means the document issued by the Department
25 certifying that the person named thereon has fulfilled all
26 requirements prerequisite to licensure under this Act.

1 "Licensed activities" means those activities listed in the
2 definition of "broker" under this Section.

3 "Licensee" means any person, as defined in this Section,
4 who holds a valid unexpired license as a managing broker,
5 broker, or leasing agent.

6 "Listing presentation" means a communication between a
7 managing broker or broker and a consumer in which the licensee
8 is attempting to secure a brokerage agreement with the consumer
9 to market the consumer's real estate for sale or lease.

10 "Managing broker" means a broker who has supervisory
11 responsibilities for licensees in one or, in the case of a
12 multi-office company, more than one office and who has been
13 appointed as such by the sponsoring broker.

14 "Medium of advertising" means any method of communication
15 intended to influence the general public to use or purchase a
16 particular good or service or real estate.

17 "Ministerial acts" means those acts that a licensee may
18 perform for a consumer that are informative or clerical in
19 nature and do not rise to the level of active representation on
20 behalf of a consumer. Examples of these acts include without
21 limitation (i) responding to phone inquiries by consumers as to
22 the availability and pricing of brokerage services, (ii)
23 responding to phone inquiries from a consumer concerning the
24 price or location of property, (iii) attending an open house
25 and responding to questions about the property from a consumer,
26 (iv) setting an appointment to view property, (v) responding to

1 questions of consumers walking into a licensee's office
2 concerning brokerage services offered or particular
3 properties, (vi) accompanying an appraiser, inspector,
4 contractor, or similar third party on a visit to a property,
5 (vii) describing a property or the property's condition in
6 response to a consumer's inquiry, (viii) completing business or
7 factual information for a consumer on an offer or contract to
8 purchase on behalf of a client, (ix) showing a client through a
9 property being sold by an owner on his or her own behalf, or
10 (x) referral to another broker or service provider.

11 "Office" means a broker's place of business where the
12 general public is invited to transact business and where
13 records may be maintained and licenses displayed, whether or
14 not it is the broker's principal place of business.

15 "Person" means and includes individuals, entities,
16 corporations, limited liability companies, registered limited
17 liability partnerships, and partnerships, foreign or domestic,
18 except that when the context otherwise requires, the term may
19 refer to a single individual or other described entity.

20 "Personal assistant" means a licensed or unlicensed person
21 who has been hired for the purpose of aiding or assisting a
22 sponsored licensee in the performance of the sponsored
23 licensee's job.

24 "Pocket card" means the card issued by the Department to
25 signify that the person named on the card is currently licensed
26 under this Act.

1 "Pre-license school" means a school licensed by the
2 Department offering courses in subjects related to real estate
3 transactions, including the subjects upon which an applicant is
4 examined in determining fitness to receive a license.

5 "Pre-renewal period" means the period between the date of
6 issue of a currently valid license and the license's expiration
7 date.

8 "Proctor" means any person, including, but not limited to,
9 an instructor, who has a written agreement to administer
10 examinations fairly and impartially with a licensed
11 pre-license school or a licensed continuing education school.

12 "Real estate" means and includes leaseholds as well as any
13 other interest or estate in land, whether corporeal,
14 incorporeal, freehold, or non-freehold, ~~including timeshare~~
15 ~~interests,~~ and whether the real estate is situated in this
16 State or elsewhere. "Real estate" does not include property
17 sold, exchanged, or leased as a timeshare or similar vacation
18 item or interest, vacation club membership, or other activity
19 formerly regulated under the Real Estate Timeshare Act of 1999
20 (repealed).

21 "Regular employee" means a person working an average of 20
22 hours per week for a person or entity who would be considered
23 as an employee under the Internal Revenue Service eleven main
24 tests in three categories being behavioral control, financial
25 control and the type of relationship of the parties, formerly
26 the twenty factor test.

1 "Secretary" means the Secretary of the Department of
2 Financial and Professional Regulation, or a person authorized
3 by the Secretary to act in the Secretary's stead.

4 "Sponsoring broker" means the broker who has issued a
5 sponsor card to a licensed managing broker, broker, or a
6 leasing agent.

7 "Sponsor card" means the temporary permit issued by the
8 sponsoring broker certifying that the managing broker, broker,
9 or leasing agent named thereon is employed by or associated by
10 written agreement with the sponsoring broker, as provided for
11 in Section 5-40 of this Act.

12 (Source: P.A. 98-531, eff. 8-23-13; 98-1109, eff. 1-1-15;
13 99-227, eff. 8-3-15.)

14 (225 ILCS 454/5-20)

15 (Section scheduled to be repealed on January 1, 2020)

16 Sec. 5-20. Exemptions from managing broker, broker, or
17 leasing agent license requirement. The requirement for holding
18 a license under this Article 5 shall not apply to:

19 (1) Any person, partnership, or corporation that as
20 owner or lessor performs any of the acts described in the
21 definition of "broker" under Section 1-10 of this Act with
22 reference to property owned or leased by it, or to the
23 regular employees thereof with respect to the property so
24 owned or leased, where such acts are performed in the
25 regular course of or as an incident to the management,

1 sale, or other disposition of such property and the
2 investment therein, provided that such regular employees
3 do not perform any of the acts described in the definition
4 of "broker" under Section 1-10 of this Act in connection
5 with a vocation of selling or leasing any real estate or
6 the improvements thereon not so owned or leased.

7 (2) An attorney in fact acting under a duly executed
8 and recorded power of attorney to convey real estate from
9 the owner or lessor or the services rendered by an attorney
10 at law in the performance of the attorney's duty as an
11 attorney at law.

12 (3) Any person acting as receiver, trustee in
13 bankruptcy, administrator, executor, or guardian or while
14 acting under a court order or under the authority of a will
15 or testamentary trust.

16 (4) Any person acting as a resident manager for the
17 owner or any employee acting as the resident manager for a
18 broker managing an apartment building, duplex, or
19 apartment complex, when the resident manager resides on the
20 premises, the premises is his or her primary residence, and
21 the resident manager is engaged in the leasing of the
22 property of which he or she is the resident manager.

23 (5) Any officer or employee of a federal agency in the
24 conduct of official duties.

25 (6) Any officer or employee of the State government or
26 any political subdivision thereof performing official

1 duties.

2 (7) Any multiple listing service or other similar
3 information exchange that is engaged in the collection and
4 dissemination of information concerning real estate
5 available for sale, purchase, lease, or exchange for the
6 purpose of providing licensees with a system by which
7 licensees may cooperatively share information along with
8 which no other licensed activities, as defined in Section
9 1-10 of this Act, are provided.

10 (8) Railroads and other public utilities regulated by
11 the State of Illinois, or the officers or full time
12 employees thereof, unless the performance of any licensed
13 activities is in connection with the sale, purchase, lease,
14 or other disposition of real estate or investment therein
15 not needing the approval of the appropriate State
16 regulatory authority.

17 (9) Any medium of advertising in the routine course of
18 selling or publishing advertising along with which no other
19 licensed activities, as defined in Section 1-10 of this
20 Act, are provided.

21 (10) Any resident lessee of a residential dwelling unit
22 who refers for compensation to the owner of the dwelling
23 unit, or to the owner's agent, prospective lessees of
24 dwelling units in the same building or complex as the
25 resident lessee's unit, but only if the resident lessee (i)
26 refers no more than 3 prospective lessees in any 12-month

1 period, (ii) receives compensation of no more than \$1,500
2 or the equivalent of one month's rent, whichever is less,
3 in any 12-month period, and (iii) limits his or her
4 activities to referring prospective lessees to the owner,
5 or the owner's agent, and does not show a residential
6 dwelling unit to a prospective lessee, discuss terms or
7 conditions of leasing a dwelling unit with a prospective
8 lessee, or otherwise participate in the negotiation of the
9 leasing of a dwelling unit.

10 (11) The purchase, sale, or transfer of a timeshare or
11 similar vacation item or interest, vacation club
12 membership, or other activity formerly regulated under the
13 Real Estate Timeshare Act of 1999 (repealed) An exchange
14 company registered under the Real Estate Timeshare Act of
15 1999 and the regular employees of that registered exchange
16 company but only when conducting an exchange program as
17 defined in that Act.

18 (12) (Blank). An existing timeshare owner who, for
19 compensation, refers prospective purchasers, but only if
20 the existing timeshare owner (i) refers no more than 20
21 prospective purchasers in any calendar year, (ii) receives
22 no more than \$1,000, or its equivalent, for referrals in
23 any calendar year and (iii) limits his or her activities to
24 referring prospective purchasers of timeshare interests to
25 the developer or the developer's employees or agents, and
26 does not show, discuss terms or conditions of purchase or

1 ~~otherwise participate in negotiations with regard to~~
2 ~~timeshare interests.~~

3 (13) Any person who is licensed without examination
4 under Section 10-25 (now repealed) of the Auction License
5 Act is exempt from holding a managing broker's or broker's
6 license under this Act for the limited purpose of selling
7 or leasing real estate at auction, so long as:

8 (A) that person has made application for said
9 exemption by July 1, 2000;

10 (B) that person verifies to the Department that he
11 or she has sold real estate at auction for a period of
12 5 years prior to licensure as an auctioneer;

13 (C) the person has had no lapse in his or her
14 license as an auctioneer; and

15 (D) the license issued under the Auction License
16 Act has not been disciplined for violation of those
17 provisions of Article 20 of the Auction License Act
18 dealing with or related to the sale or lease of real
19 estate at auction.

20 (14) A person who holds a valid license under the
21 Auction License Act and a valid real estate auction
22 certification and conducts auctions for the sale of real
23 estate under Section 5-32 of this Act.

24 (15) A hotel operator who is registered with the
25 Illinois Department of Revenue and pays taxes under the
26 Hotel Operators' Occupation Tax Act and rents a room or

1 rooms in a hotel as defined in the Hotel Operators'
2 Occupation Tax Act for a period of not more than 30
3 consecutive days and not more than 60 days in a calendar
4 year.

5 (Source: P.A. 98-553, eff. 1-1-14; 99-227, eff. 8-3-15.)

6 (225 ILCS 454/20-20)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 20-20. Grounds for discipline.

9 (a) The Department may refuse to issue or renew a license,
10 may place on probation, suspend, or revoke any license,
11 reprimand, or take any other disciplinary or non-disciplinary
12 action as the Department may deem proper and impose a fine not
13 to exceed \$25,000 upon any licensee or applicant under this Act
14 or any person who holds himself or herself out as an applicant
15 or licensee or against a licensee in handling his or her own
16 property, whether held by deed, option, or otherwise, for any
17 one or any combination of the following causes:

18 (1) Fraud or misrepresentation in applying for, or
19 procuring, a license under this Act or in connection with
20 applying for renewal of a license under this Act.

21 (2) The conviction of or plea of guilty or plea of nolo
22 contendere to a felony or misdemeanor in this State or any
23 other jurisdiction; or the entry of an administrative
24 sanction by a government agency in this State or any other
25 jurisdiction. Action taken under this paragraph (2) for a

1 misdemeanor or an administrative sanction is limited to a
2 misdemeanor or administrative sanction that has as an
3 essential element dishonesty or fraud or involves larceny,
4 embezzlement, or obtaining money, property, or credit by
5 false pretenses or by means of a confidence game.

6 (3) Inability to practice the profession with
7 reasonable judgment, skill, or safety as a result of a
8 physical illness, including, but not limited to,
9 deterioration through the aging process or loss of motor
10 skill, or a mental illness or disability.

11 (4) Practice under this Act as a licensee in a retail
12 sales establishment from an office, desk, or space that is
13 not separated from the main retail business by a separate
14 and distinct area within the establishment.

15 (5) Having been disciplined by another state, the
16 District of Columbia, a territory, a foreign nation, or a
17 governmental agency authorized to impose discipline if at
18 least one of the grounds for that discipline is the same as
19 or the equivalent of one of the grounds for which a
20 licensee may be disciplined under this Act. A certified
21 copy of the record of the action by the other state or
22 jurisdiction shall be prima facie evidence thereof.

23 (6) Engaging in the practice of real estate brokerage
24 without a license or after the licensee's license was
25 expired or while the license was inoperative.

26 (7) Cheating on or attempting to subvert the Real

1 Estate License Exam or continuing education exam.

2 (8) Aiding or abetting an applicant to subvert or cheat
3 on the Real Estate License Exam or continuing education
4 exam administered pursuant to this Act.

5 (9) Advertising that is inaccurate, misleading, or
6 contrary to the provisions of the Act.

7 (10) Making any substantial misrepresentation or
8 untruthful advertising.

9 (11) Making any false promises of a character likely to
10 influence, persuade, or induce.

11 (12) Pursuing a continued and flagrant course of
12 misrepresentation or the making of false promises through
13 licensees, employees, agents, advertising, or otherwise.

14 (13) Any misleading or untruthful advertising, or
15 using any trade name or insignia of membership in any real
16 estate organization of which the licensee is not a member.

17 (14) Acting for more than one party in a transaction
18 without providing written notice to all parties for whom
19 the licensee acts.

20 (15) Representing or attempting to represent a broker
21 other than the sponsoring broker.

22 (16) Failure to account for or to remit any moneys or
23 documents coming into his or her possession that belong to
24 others.

25 (17) Failure to maintain and deposit in a special
26 account, separate and apart from personal and other

1 business accounts, all escrow moneys belonging to others
2 entrusted to a licensee while acting as a broker, escrow
3 agent, or temporary custodian of the funds of others or
4 failure to maintain all escrow moneys on deposit in the
5 account until the transactions are consummated or
6 terminated, except to the extent that the moneys, or any
7 part thereof, shall be:

8 (A) disbursed prior to the consummation or
9 termination (i) in accordance with the written
10 direction of the principals to the transaction or their
11 duly authorized agents, (ii) in accordance with
12 directions providing for the release, payment, or
13 distribution of escrow moneys contained in any written
14 contract signed by the principals to the transaction or
15 their duly authorized agents, or (iii) pursuant to an
16 order of a court of competent jurisdiction; or

17 (B) deemed abandoned and transferred to the Office
18 of the State Treasurer to be handled as unclaimed
19 property pursuant to the Uniform Disposition of
20 Unclaimed Property Act. Escrow moneys may be deemed
21 abandoned under this subparagraph (B) only: (i) in the
22 absence of disbursement under subparagraph (A); (ii)
23 in the absence of notice of the filing of any claim in
24 a court of competent jurisdiction; and (iii) if 6
25 months have elapsed after the receipt of a written
26 demand for the escrow moneys from one of the principals

1 to the transaction or the principal's duly authorized
2 agent.

3 The account shall be noninterest bearing, unless the
4 character of the deposit is such that payment of interest
5 thereon is otherwise required by law or unless the
6 principals to the transaction specifically require, in
7 writing, that the deposit be placed in an interest bearing
8 account.

9 (18) Failure to make available to the Department all
10 escrow records and related documents maintained in
11 connection with the practice of real estate within 24 hours
12 of a request for those documents by Department personnel.

13 (19) Failing to furnish copies upon request of
14 documents relating to a real estate transaction to a party
15 who has executed that document.

16 (20) Failure of a sponsoring broker to timely provide
17 information, sponsor cards, or termination of licenses to
18 the Department.

19 (21) Engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public.

22 (22) Commingling the money or property of others with
23 his or her own money or property.

24 (23) Employing any person on a purely temporary or
25 single deal basis as a means of evading the law regarding
26 payment of commission to nonlicensees on some contemplated

1 transactions.

2 (24) Permitting the use of his or her license as a
3 broker to enable a leasing agent or unlicensed person to
4 operate a real estate business without actual
5 participation therein and control thereof by the broker.

6 (25) Any other conduct, whether of the same or a
7 different character from that specified in this Section,
8 that constitutes dishonest dealing.

9 (26) Displaying a "for rent" or "for sale" sign on any
10 property without the written consent of an owner or his or
11 her duly authorized agent or advertising by any means that
12 any property is for sale or for rent without the written
13 consent of the owner or his or her authorized agent.

14 (27) Failing to provide information requested by the
15 Department, or otherwise respond to that request, within 30
16 days of the request.

17 (28) Advertising by means of a blind advertisement,
18 except as otherwise permitted in Section 10-30 of this Act.

19 (29) Offering guaranteed sales plans, as defined in
20 clause (A) of this subdivision (29), except to the extent
21 hereinafter set forth:

22 (A) A "guaranteed sales plan" is any real estate
23 purchase or sales plan whereby a licensee enters into a
24 conditional or unconditional written contract with a
25 seller, prior to entering into a brokerage agreement
26 with the seller, by the terms of which a licensee

1 agrees to purchase a property of the seller within a
2 specified period of time at a specific price in the
3 event the property is not sold in accordance with the
4 terms of a brokerage agreement to be entered into
5 between the sponsoring broker and the seller.

6 (B) A licensee offering a guaranteed sales plan
7 shall provide the details and conditions of the plan in
8 writing to the party to whom the plan is offered.

9 (C) A licensee offering a guaranteed sales plan
10 shall provide to the party to whom the plan is offered
11 evidence of sufficient financial resources to satisfy
12 the commitment to purchase undertaken by the broker in
13 the plan.

14 (D) Any licensee offering a guaranteed sales plan
15 shall undertake to market the property of the seller
16 subject to the plan in the same manner in which the
17 broker would market any other property, unless the
18 agreement with the seller provides otherwise.

19 (E) The licensee cannot purchase seller's property
20 until the brokerage agreement has ended according to
21 its terms or is otherwise terminated.

22 (F) Any licensee who fails to perform on a
23 guaranteed sales plan in strict accordance with its
24 terms shall be subject to all the penalties provided in
25 this Act for violations thereof and, in addition, shall
26 be subject to a civil fine payable to the party injured

1 by the default in an amount of up to \$25,000.

2 (30) Influencing or attempting to influence, by any
3 words or acts, a prospective seller, purchaser, occupant,
4 landlord, or tenant of real estate, in connection with
5 viewing, buying, or leasing real estate, so as to promote
6 or tend to promote the continuance or maintenance of
7 racially and religiously segregated housing or so as to
8 retard, obstruct, or discourage racially integrated
9 housing on or in any street, block, neighborhood, or
10 community.

11 (31) Engaging in any act that constitutes a violation
12 of any provision of Article 3 of the Illinois Human Rights
13 Act, whether or not a complaint has been filed with or
14 adjudicated by the Human Rights Commission.

15 (32) Inducing any party to a contract of sale or lease
16 or brokerage agreement to break the contract of sale or
17 lease or brokerage agreement for the purpose of
18 substituting, in lieu thereof, a new contract for sale or
19 lease or brokerage agreement with a third party.

20 (33) Negotiating a sale, exchange, or lease of real
21 estate directly with any person if the licensee knows that
22 the person has an exclusive brokerage agreement with
23 another broker, unless specifically authorized by that
24 broker.

25 (34) When a licensee is also an attorney, acting as the
26 attorney for either the buyer or the seller in the same

1 transaction in which the licensee is acting or has acted as
2 a managing broker or broker.

3 (35) Advertising or offering merchandise or services
4 as free if any conditions or obligations necessary for
5 receiving the merchandise or services are not disclosed in
6 the same advertisement or offer. These conditions or
7 obligations include without limitation the requirement
8 that the recipient attend a promotional activity or visit a
9 real estate site. As used in this subdivision (35), "free"
10 includes terms such as "award", "prize", "no charge", "free
11 of charge", "without charge", and similar words or phrases
12 that reasonably lead a person to believe that he or she may
13 receive or has been selected to receive something of value,
14 without any conditions or obligations on the part of the
15 recipient.

16 (36) (Blank). ~~Disregarding or violating any provision~~
17 ~~of the Land Sales Registration Act of 1989, the Illinois~~
18 ~~Real Estate Time Share Act, or the published rules~~
19 ~~promulgated by the Department to enforce those Acts.~~

20 (37) Violating the terms of a disciplinary order issued
21 by the Department.

22 (38) Paying or failing to disclose compensation in
23 violation of Article 10 of this Act.

24 (39) Requiring a party to a transaction who is not a
25 client of the licensee to allow the licensee to retain a
26 portion of the escrow moneys for payment of the licensee's

1 commission or expenses as a condition for release of the
2 escrow moneys to that party.

3 (40) Disregarding or violating any provision of this
4 Act or the published rules promulgated by the Department to
5 enforce this Act or aiding or abetting any individual,
6 partnership, registered limited liability partnership,
7 limited liability company, or corporation in disregarding
8 any provision of this Act or the published rules
9 promulgated by the Department to enforce this Act.

10 (41) Failing to provide the minimum services required
11 by Section 15-75 of this Act when acting under an exclusive
12 brokerage agreement.

13 (42) Habitual or excessive use or addiction to alcohol,
14 narcotics, stimulants, or any other chemical agent or drug
15 that results in a managing broker, broker, or leasing
16 agent's inability to practice with reasonable skill or
17 safety.

18 (43) Enabling, aiding, or abetting an auctioneer, as
19 defined in the Auction License Act, to conduct a real
20 estate auction in a manner that is in violation of this
21 Act.

22 (b) The Department may refuse to issue or renew or may
23 suspend the license of any person who fails to file a return,
24 pay the tax, penalty or interest shown in a filed return, or
25 pay any final assessment of tax, penalty, or interest, as
26 required by any tax Act administered by the Department of

1 Revenue, until such time as the requirements of that tax Act
2 are satisfied in accordance with subsection (g) of Section
3 2105-15 of the Civil Administrative Code of Illinois.

4 (c) The Department shall deny a license or renewal
5 authorized by this Act to a person who has defaulted on an
6 educational loan or scholarship provided or guaranteed by the
7 Illinois Student Assistance Commission or any governmental
8 agency of this State in accordance with item (5) of subsection
9 (a) of Section 2105-15 of the Civil Administrative Code of
10 Illinois.

11 (d) In cases where the Department of Healthcare and Family
12 Services (formerly Department of Public Aid) has previously
13 determined that a licensee or a potential licensee is more than
14 30 days delinquent in the payment of child support and has
15 subsequently certified the delinquency to the Department may
16 refuse to issue or renew or may revoke or suspend that person's
17 license or may take other disciplinary action against that
18 person based solely upon the certification of delinquency made
19 by the Department of Healthcare and Family Services in
20 accordance with item (5) of subsection (a) of Section 2105-15
21 of the Civil Administrative Code of Illinois.

22 (e) In enforcing this Section, the Department or Board upon
23 a showing of a possible violation may compel an individual
24 licensed to practice under this Act, or who has applied for
25 licensure under this Act, to submit to a mental or physical
26 examination, or both, as required by and at the expense of the

1 Department. The Department or Board may order the examining
2 physician to present testimony concerning the mental or
3 physical examination of the licensee or applicant. No
4 information shall be excluded by reason of any common law or
5 statutory privilege relating to communications between the
6 licensee or applicant and the examining physician. The
7 examining physicians shall be specifically designated by the
8 Board or Department. The individual to be examined may have, at
9 his or her own expense, another physician of his or her choice
10 present during all aspects of this examination. Failure of an
11 individual to submit to a mental or physical examination, when
12 directed, shall be grounds for suspension of his or her license
13 until the individual submits to the examination if the
14 Department finds, after notice and hearing, that the refusal to
15 submit to the examination was without reasonable cause.

16 If the Department or Board finds an individual unable to
17 practice because of the reasons set forth in this Section, the
18 Department or Board may require that individual to submit to
19 care, counseling, or treatment by physicians approved or
20 designated by the Department or Board, as a condition, term, or
21 restriction for continued, reinstated, or renewed licensure to
22 practice; or, in lieu of care, counseling, or treatment, the
23 Department may file, or the Board may recommend to the
24 Department to file, a complaint to immediately suspend, revoke,
25 or otherwise discipline the license of the individual. An
26 individual whose license was granted, continued, reinstated,

1 renewed, disciplined or supervised subject to such terms,
2 conditions, or restrictions, and who fails to comply with such
3 terms, conditions, or restrictions, shall be referred to the
4 Secretary for a determination as to whether the individual
5 shall have his or her license suspended immediately, pending a
6 hearing by the Department.

7 In instances in which the Secretary immediately suspends a
8 person's license under this Section, a hearing on that person's
9 license must be convened by the Department within 30 days after
10 the suspension and completed without appreciable delay. The
11 Department and Board shall have the authority to review the
12 subject individual's record of treatment and counseling
13 regarding the impairment to the extent permitted by applicable
14 federal statutes and regulations safeguarding the
15 confidentiality of medical records.

16 An individual licensed under this Act and affected under
17 this Section shall be afforded an opportunity to demonstrate to
18 the Department or Board that he or she can resume practice in
19 compliance with acceptable and prevailing standards under the
20 provisions of his or her license.

21 (Source: P.A. 98-553, eff. 1-1-14; 98-756, eff. 7-16-14;
22 99-227, eff. 8-3-15.)

23 (225 ILCS 454/20-85)

24 (Section scheduled to be repealed on January 1, 2020)

25 Sec. 20-85. Recovery from Real Estate Recovery Fund. The

1 Department shall maintain a Real Estate Recovery Fund from
2 which any person aggrieved by an act, representation,
3 transaction, or conduct of a licensee or unlicensed employee of
4 a licensee that is in violation of this Act or the rules
5 promulgated pursuant thereto, constitutes embezzlement of
6 money or property, or results in money or property being
7 unlawfully obtained from any person by false pretenses,
8 artifice, trickery, or forgery or by reason of any fraud,
9 misrepresentation, discrimination, or deceit by or on the part
10 of any such licensee or the unlicensed employee of a licensee
11 and that results in a loss of actual cash money, as opposed to
12 losses in market value, may recover. The aggrieved person may
13 recover, by a post-judgment order of the circuit court of the
14 county where the violation occurred in a proceeding described
15 in Section 20-90 of this Act, an amount of not more than
16 \$25,000 from the Fund for damages sustained by the act,
17 representation, transaction, or conduct, together with costs
18 of suit and attorney's fees incurred in connection therewith of
19 not to exceed 15% of the amount of the recovery ordered paid
20 from the Fund. However, no person may recover from the Fund
21 unless the court finds that the person suffered a loss
22 resulting from intentional misconduct. The post-judgment order
23 shall not include interest on the judgment. The maximum
24 liability against the Fund arising out of any one act shall be
25 as provided in this Section, and the post-judgment order shall
26 spread the award equitably among all co-owners or otherwise

1 aggrieved persons, if any. The maximum liability against the
2 Fund arising out of the activities of any one licensee or one
3 unlicensed employee of a licensee, since January 1, 1974, shall
4 be \$100,000. Nothing in this Section shall be construed to
5 authorize recovery from the Fund unless the loss of the
6 aggrieved person results from an act or omission of a licensee
7 under this Act who was at the time of the act or omission
8 acting in such capacity or was apparently acting in such
9 capacity or their unlicensed employee and unless the aggrieved
10 person has obtained a valid judgment and post-judgment order of
11 the court as provided for in Section 20-90 of this Act. ~~No~~
12 ~~person aggrieved by an act, representation, or transaction that~~
13 ~~is in violation of the Illinois Real Estate Time Share Act or~~
14 ~~the Land Sales Registration Act of 1989 may recover from the~~
15 ~~Fund.~~

16 (Source: P.A. 99-227, eff. 8-3-15.)

17 (225 ILCS 745/Act rep.)

18 Section 70. The Professional Geologist Licensing Act is
19 repealed.

20 Section 75. The Tattoo and Body Piercing Establishment
21 Registration Act is amended by changing Section 10 as follows:

22 (410 ILCS 54/10)

23 Sec. 10. Definitions. In this Act:

1 "Aseptic technique" means a practice that prevents and
2 hinders the transmission of disease-producing microorganisms
3 from one person or place to another.

4 "Body piercing" means penetrating the skin to make a hole,
5 mark, or scar that is generally permanent in nature. "Body
6 piercing" does not include practices that are considered
7 medical procedures or the puncturing of the outer perimeter or
8 lobe of the ear using a pre-sterilized, single-use stud and
9 clasp ear piercing system.

10 "Client" means the person, customer, or patron whose skin
11 will be tattooed or pierced.

12 "Communicable disease" means a disease that can be
13 transmitted from person to person directly or indirectly,
14 including diseases transmitted via blood or body fluids.

15 "Department" means the Department of Public Health or other
16 health authority designated as its agent.

17 "Director" means the Director of Public Health or his or
18 her designee.

19 "Establishment" means a body-piercing operation, a
20 tattooing operation, or a combination of both operations in a
21 multiple-type establishment.

22 "Ink cup" means a small container for an individual portion
23 of pigment that may be installed in a holder or palette and in
24 which a small amount of pigment of a given color is placed.

25 "Multi-type establishment" means an operation encompassing
26 both body piercing and tattooing on the same premises and under

1 the same management.

2 "Person" means any individual, group of individuals,
3 association, trust, partnership, corporation, or limited
4 liability company.

5 "Procedure area" means the immediate area where
6 instruments and supplies are placed during a procedure.

7 "Operator" means an individual, partnership, corporation,
8 association, or other entity engaged in the business of owning,
9 managing, or offering services of body piercing or tattooing.

10 "Sanitation" means the effective bactericidal and
11 veridical treatment of clean equipment surfaces by a process
12 that effectively destroys pathogens.

13 "Single use" means items that are intended for one time and
14 one person use only and are to then be discarded.

15 "Sterilize" means to destroy all living organisms
16 including spores.

17 "Tattooing" means making permanent marks on the skin of a
18 live human being by puncturing the skin and inserting indelible
19 colors. "Tattooing" includes imparting permanent makeup on the
20 skin, such as permanent lip coloring and permanent eyeliner.

21 "Tattooing" does not include any of the following:

22 (1) The practice of electrology (the practice or
23 teaching of services for permanent hair removal utilizing
24 only solid probe electrode type epilation, which may
25 include thermolysis (shortwave, high frequency),
26 electrolysis (galvanic), or a combination of both

1 (superimposed or sequential blend) ~~as defined in the~~
2 ~~Electrology Licensing Act.~~

3 (2) The practice of acupuncture as defined in the
4 Acupuncture Licensing Act.

5 (3) The use, by a physician licensed to practice
6 medicine in all its branches, of colors, dyes, or pigments
7 for the purpose of obscuring scar tissue or imparting color
8 to the skin for cosmetic, medical, or figurative purposes.

9 (Source: P.A. 99-117, eff. 1-1-16.)

10 Section 80. The Genetic Information Privacy Act is amended
11 by changing Sections 10 and 25 as follows:

12 (410 ILCS 513/10)

13 Sec. 10. Definitions. As used in this Act:

14 "Authority" means the Illinois Health Information Exchange
15 Authority established pursuant to the Illinois Health
16 Information Exchange and Technology Act.

17 "Business associate" has the meaning ascribed to it under
18 HIPAA, as specified in 45 CFR 160.103.

19 "Covered entity" has the meaning ascribed to it under
20 HIPAA, as specified in 45 CFR 160.103.

21 "De-identified information" means health information that
22 is not individually identifiable as described under HIPAA, as
23 specified in 45 CFR 164.514(b).

24 "Disclosure" has the meaning ascribed to it under HIPAA, as

1 specified in 45 CFR 160.103.

2 "Employer" means the State of Illinois, any unit of local
3 government, and any board, commission, department,
4 institution, or school district, any party to a public
5 contract, any joint apprenticeship or training committee
6 within the State, and every other person employing employees
7 within the State.

8 "Employment agency" means both public and private
9 employment agencies and any person, labor organization, or
10 labor union having a hiring hall or hiring office regularly
11 undertaking, with or without compensation, to procure
12 opportunities to work, or to procure, recruit, refer, or place
13 employees.

14 "Family member" means, with respect to an individual, (i)
15 the spouse of the individual; (ii) a dependent child of the
16 individual, including a child who is born to or placed for
17 adoption with the individual; (iii) any other person qualifying
18 as a covered dependent under a managed care plan; and (iv) all
19 other individuals related by blood or law to the individual or
20 the spouse or child described in subsections (i) through (iii)
21 of this definition.

22 "Genetic information" has the meaning ascribed to it under
23 HIPAA, as specified in 45 CFR 160.103.

24 "Genetic monitoring" means the periodic examination of
25 employees to evaluate acquired modifications to their genetic
26 material, such as chromosomal damage or evidence of increased

1 occurrence of mutations that may have developed in the course
2 of employment due to exposure to toxic substances in the
3 workplace in order to identify, evaluate, and respond to
4 effects of or control adverse environmental exposures in the
5 workplace.

6 "Genetic services" has the meaning ascribed to it under
7 HIPAA, as specified in 45 CFR 160.103.

8 "Genetic testing" and "genetic test" have the meaning
9 ascribed to "genetic test" under HIPAA, as specified in 45 CFR
10 160.103.

11 "Health care operations" has the meaning ascribed to it
12 under HIPAA, as specified in 45 CFR 164.501.

13 "Health care professional" means (i) a licensed physician,
14 (ii) a licensed physician assistant, (iii) a licensed advanced
15 practice nurse, (iv) a licensed dentist, (v) a licensed
16 podiatrist, (vi) a ~~licensed~~ genetic counselor, or (vii) an
17 individual certified to provide genetic testing by a state or
18 local public health department.

19 "Health care provider" has the meaning ascribed to it under
20 HIPAA, as specified in 45 CFR 160.103.

21 "Health facility" means a hospital, blood bank, blood
22 center, sperm bank, or other health care institution, including
23 any "health facility" as that term is defined in the Illinois
24 Finance Authority Act.

25 "Health information exchange" or "HIE" means a health
26 information exchange or health information organization that

1 exchanges health information electronically that (i) is
2 established pursuant to the Illinois Health Information
3 Exchange and Technology Act, or any subsequent amendments
4 thereto, and any administrative rules promulgated thereunder;
5 (ii) has established a data sharing arrangement with the
6 Authority; or (iii) as of August 16, 2013, was designated by
7 the Authority Board as a member of, or was represented on, the
8 Authority Board's Regional Health Information Exchange
9 Workgroup; provided that such designation shall not require the
10 establishment of a data sharing arrangement or other
11 participation with the Illinois Health Information Exchange or
12 the payment of any fee. In certain circumstances, in accordance
13 with HIPAA, an HIE will be a business associate.

14 "Health oversight agency" has the meaning ascribed to it
15 under HIPAA, as specified in 45 CFR 164.501.

16 "HIPAA" means the Health Insurance Portability and
17 Accountability Act of 1996, Public Law 104-191, as amended by
18 the Health Information Technology for Economic and Clinical
19 Health Act of 2009, Public Law 111-05, and any subsequent
20 amendments thereto and any regulations promulgated thereunder.

21 "Insurer" means (i) an entity that is subject to the
22 jurisdiction of the Director of Insurance and (ii) a managed
23 care plan.

24 "Labor organization" includes any organization, labor
25 union, craft union, or any voluntary unincorporated
26 association designed to further the cause of the rights of

1 union labor that is constituted for the purpose, in whole or in
2 part, of collective bargaining or of dealing with employers
3 concerning grievances, terms or conditions of employment, or
4 apprenticeships or applications for apprenticeships, or of
5 other mutual aid or protection in connection with employment,
6 including apprenticeships or applications for apprenticeships.

7 "Licensing agency" means a board, commission, committee,
8 council, department, or officers, except a judicial officer, in
9 this State or any political subdivision authorized to grant,
10 deny, renew, revoke, suspend, annul, withdraw, or amend a
11 license or certificate of registration.

12 "Limited data set" has the meaning ascribed to it under
13 HIPAA, as described in 45 CFR 164.514(e)(2).

14 "Managed care plan" means a plan that establishes,
15 operates, or maintains a network of health care providers that
16 have entered into agreements with the plan to provide health
17 care services to enrollees where the plan has the ultimate and
18 direct contractual obligation to the enrollee to arrange for
19 the provision of or pay for services through:

20 (1) organizational arrangements for ongoing quality
21 assurance, utilization review programs, or dispute
22 resolution; or

23 (2) financial incentives for persons enrolled in the
24 plan to use the participating providers and procedures
25 covered by the plan.

26 A managed care plan may be established or operated by any

1 entity including a licensed insurance company, hospital or
2 medical service plan, health maintenance organization, limited
3 health service organization, preferred provider organization,
4 third party administrator, or an employer or employee
5 organization.

6 "Minimum necessary" means HIPAA's standard for using,
7 disclosing, and requesting protected health information found
8 in 45 CFR 164.502(b) and 164.514(d).

9 "Nontherapeutic purpose" means a purpose that is not
10 intended to improve or preserve the life or health of the
11 individual whom the information concerns.

12 "Organized health care arrangement" has the meaning
13 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

14 "Patient safety activities" has the meaning ascribed to it
15 under 42 CFR 3.20.

16 "Payment" has the meaning ascribed to it under HIPAA, as
17 specified in 45 CFR 164.501.

18 "Person" includes any natural person, partnership,
19 association, joint venture, trust, governmental entity, public
20 or private corporation, health facility, or other legal entity.

21 "Protected health information" has the meaning ascribed to
22 it under HIPAA, as specified in 45 CFR 164.103.

23 "Research" has the meaning ascribed to it under HIPAA, as
24 specified in 45 CFR 164.501.

25 "State agency" means an instrumentality of the State of
26 Illinois and any instrumentality of another state which

1 pursuant to applicable law or a written undertaking with an
2 instrumentality of the State of Illinois is bound to protect
3 the privacy of genetic information of Illinois persons.

4 "Treatment" has the meaning ascribed to it under HIPAA, as
5 specified in 45 CFR 164.501.

6 "Use" has the meaning ascribed to it under HIPAA, as
7 specified in 45 CFR 160.103, where context dictates.

8 (Source: P.A. 98-1046, eff. 1-1-15; 99-173, eff. 7-29-15.)

9 (410 ILCS 513/25)

10 Sec. 25. Use of genetic testing information by employers.

11 (a) An employer, employment agency, labor organization,
12 and licensing agency shall treat genetic testing and genetic
13 information in such a manner that is consistent with the
14 requirements of federal law, including but not limited to the
15 Genetic Information Nondiscrimination Act of 2008, the
16 Americans with Disabilities Act, Title VII of the Civil Rights
17 Act of 1964, the Family and Medical Leave Act of 1993, the
18 Occupational Safety and Health Act of 1970, the Federal Mine
19 Safety and Health Act of 1977, or the Atomic Energy Act of
20 1954.

21 (b) An employer may release genetic testing information
22 only in accordance with this Act.

23 (c) An employer, employment agency, labor organization,
24 and licensing agency shall not directly or indirectly do any of
25 the following:

1 (1) solicit, request, require or purchase genetic
2 testing or genetic information of a person or a family
3 member of the person, or administer a genetic test to a
4 person or a family member of the person as a condition of
5 employment, preemployment application, labor organization
6 membership, or licensure;

7 (2) affect the terms, conditions, or privileges of
8 employment, preemployment application, labor organization
9 membership, or licensure, or terminate the employment,
10 labor organization membership, or licensure of any person
11 because of genetic testing or genetic information with
12 respect to the employee or family member, or information
13 about a request for or the receipt of genetic testing by
14 such employee or family member of such employee;

15 (3) limit, segregate, or classify employees in any way
16 that would deprive or tend to deprive any employee of
17 employment opportunities or otherwise adversely affect the
18 status of the employee as an employee because of genetic
19 testing or genetic information with respect to the employee
20 or a family member, or information about a request for or
21 the receipt of genetic testing or genetic information by
22 such employee or family member of such employee; and

23 (4) retaliate through discharge or in any other manner
24 against any person alleging a violation of this Act or
25 participating in any manner in a proceeding under this Act.

26 (d) An agreement between a person and an employer,

1 prospective employer, employment agency, labor organization,
2 or licensing agency, or its employees, agents, or members
3 offering the person employment, labor organization membership,
4 licensure, or any pay or benefit in return for taking a genetic
5 test is prohibited.

6 (e) An employer shall not use genetic information or
7 genetic testing in furtherance of a workplace wellness program
8 benefiting employees unless (1) health or genetic services are
9 offered by the employer, (2) the employee provides written
10 authorization in accordance with Section 30 of this Act, (3)
11 only the employee or family member if the family member is
12 receiving genetic services and the licensed health care
13 professional or ~~licensed~~ genetic counselor involved in
14 providing such services receive individually identifiable
15 information concerning the results of such services, and (4)
16 any individually identifiable information is only available
17 for purposes of such services and shall not be disclosed to the
18 employer except in aggregate terms that do not disclose the
19 identity of specific employees.

20 (f) Nothing in this Act shall be construed to prohibit
21 genetic testing of an employee who requests a genetic test and
22 who provides written authorization, in accordance with Section
23 30 of this Act, from taking a genetic test for the purpose of
24 initiating a workers' compensation claim under the Workers'
25 Compensation Act.

26 (g) A purchase of commercially and publicly available

1 documents, including newspapers, magazines, periodicals, and
2 books but not including medical databases or court records or
3 inadvertently requesting family medical history by an
4 employer, employment agency, labor organization, and licensing
5 agency does not violate this Act.

6 (h) Nothing in this Act shall be construed to prohibit an
7 employer that conducts DNA analysis for law enforcement
8 purposes as a forensic laboratory and that includes such
9 analysis in the Combined DNA Index System pursuant to the
10 federal Violent Crime Control and Law Enforcement Act of 1994
11 from requesting or requiring genetic testing or genetic
12 information of such employer's employees, but only to the
13 extent that such genetic testing or genetic information is used
14 for analysis of DNA identification markers for quality control
15 to detect sample contamination.

16 (i) Nothing in this Act shall be construed to prohibit an
17 employer from requesting or requiring genetic information to be
18 used for genetic monitoring of the biological effects of toxic
19 substances in the workplace, but only if (1) the employer
20 provides written notice of the genetic monitoring to the
21 employee; (2) the employee provides written authorization
22 under Section 30 of this Act or the genetic monitoring is
23 required by federal or State law; (3) the employee is informed
24 of individual monitoring results; (4) the monitoring is in
25 compliance with any federal genetic monitoring regulations or
26 State genetic monitoring regulations under the authority of the

1 federal Occupational Safety and Health Act of 1970; and (5) the
2 employer, excluding any health care provider, health care
3 professional, or health facility that is involved in the
4 genetic monitoring program, receives the results of the
5 monitoring only in aggregate terms that do not disclose the
6 identity of specific employees.

7 (j) Despite lawful acquisition of genetic testing or
8 genetic information under subsections (e) through (i) of this
9 Section, an employer, employment agency, labor organization,
10 and licensing agency still may not use or disclose the genetic
11 test or genetic information in violation of this Act.

12 (k) Except as provided in subsections (e), (f), (h), and
13 (i) of this Section, a person shall not knowingly sell to or
14 interpret for an employer, employment agency, labor
15 organization, or licensing agency, or its employees, agents, or
16 members, a genetic test of an employee, labor organization
17 member, or license holder, or of a prospective employee,
18 member, or license holder.

19 (Source: P.A. 98-1046, eff. 1-1-15.)

20 Section 85. The Environmental Protection Act is amended by
21 changing Sections 22.51, 22.51a, 57.2, 57.8, 57.10, 58.2, 58.6,
22 and 58.7 as follows:

23 (415 ILCS 5/22.51)

24 Sec. 22.51. Clean Construction or Demolition Debris Fill

1 Operations.

2 (a) No person shall conduct any clean construction or
3 demolition debris fill operation in violation of this Act or
4 any regulations or standards adopted by the Board.

5 (b) (1) (A) Beginning August 18, 2005 but prior to July 1,
6 2008, no person shall use clean construction or demolition
7 debris as fill material in a current or former quarry, mine, or
8 other excavation, unless they have applied for an interim
9 authorization from the Agency for the clean construction or
10 demolition debris fill operation.

11 (B) The Agency shall approve an interim authorization upon
12 its receipt of a written application for the interim
13 authorization that is signed by the site owner and the site
14 operator, or their duly authorized agent, and that contains the
15 following information: (i) the location of the site where the
16 clean construction or demolition debris fill operation is
17 taking place, (ii) the name and address of the site owner,
18 (iii) the name and address of the site operator, and (iv) the
19 types and amounts of clean construction or demolition debris
20 being used as fill material at the site.

21 (C) The Agency may deny an interim authorization if the
22 site owner or the site operator, or their duly authorized
23 agent, fails to provide to the Agency the information listed in
24 subsection (b) (1) (B) of this Section. Any denial of an interim
25 authorization shall be subject to appeal to the Board in
26 accordance with the procedures of Section 40 of this Act.

1 (D) No person shall use clean construction or demolition
2 debris as fill material in a current or former quarry, mine, or
3 other excavation for which the Agency has denied interim
4 authorization under subsection (b) (1) (C) of this Section. The
5 Board may stay the prohibition of this subsection (D) during
6 the pendency of an appeal of the Agency's denial of the interim
7 authorization brought under subsection (b) (1) (C) of this
8 Section.

9 (2) Beginning September 1, 2006, owners and operators of
10 clean construction or demolition debris fill operations shall,
11 in accordance with a schedule prescribed by the Agency, submit
12 to the Agency applications for the permits required under this
13 Section. The Agency shall notify owners and operators in
14 writing of the due date for their permit application. The due
15 date shall be no less than 90 days after the date of the
16 Agency's written notification. Owners and operators who do not
17 receive a written notification from the Agency by October 1,
18 2007, shall submit a permit application to the Agency by
19 January 1, 2008. The interim authorization of owners and
20 operators who fail to submit a permit application to the Agency
21 by the permit application's due date shall terminate on (i) the
22 due date established by the Agency if the owner or operator
23 received a written notification from the Agency prior to
24 October 1, 2007, or (ii) or January 1, 2008, if the owner or
25 operator did not receive a written notification from the Agency
26 by October 1, 2007.

1 (3) On and after July 1, 2008, no person shall use clean
2 construction or demolition debris as fill material in a current
3 or former quarry, mine, or other excavation (i) without a
4 permit granted by the Agency for the clean construction or
5 demolition debris fill operation or in violation of any
6 conditions imposed by such permit, including periodic reports
7 and full access to adequate records and the inspection of
8 facilities, as may be necessary to assure compliance with this
9 Act and with Board regulations and standards adopted under this
10 Act or (ii) in violation of any regulations or standards
11 adopted by the Board under this Act.

12 (4) This subsection (b) does not apply to:

13 (A) the use of clean construction or demolition debris
14 as fill material in a current or former quarry, mine, or
15 other excavation located on the site where the clean
16 construction or demolition debris was generated;

17 (B) the use of clean construction or demolition debris
18 as fill material in an excavation other than a current or
19 former quarry or mine if this use complies with Illinois
20 Department of Transportation specifications; or

21 (C) current or former quarries, mines, and other
22 excavations that do not use clean construction or
23 demolition debris as fill material.

24 (c) In accordance with Title VII of this Act, the Board may
25 adopt regulations to promote the purposes of this Section. The
26 Agency shall consult with the mining and construction

1 industries during the development of any regulations to promote
2 the purposes of this Section.

3 (1) No later than December 15, 2005, the Agency shall
4 propose to the Board, and no later than September 1, 2006,
5 the Board shall adopt, regulations for the use of clean
6 construction or demolition debris as fill material in
7 current and former quarries, mines, and other excavations.
8 Such regulations shall include, but shall not be limited
9 to, standards for clean construction or demolition debris
10 fill operations and the submission and review of permits
11 required under this Section.

12 (2) Until the Board adopts rules under subsection
13 (c)(1) of this Section, all persons using clean
14 construction or demolition debris as fill material in a
15 current or former quarry, mine, or other excavation shall:

16 (A) Assure that only clean construction or
17 demolition debris is being used as fill material by
18 screening each truckload of material received using a
19 device approved by the Agency that detects volatile
20 organic compounds. Such devices may include, but are
21 not limited to, photo ionization detectors. All
22 screening devices shall be operated and maintained in
23 accordance with manufacturer's specifications.
24 Unacceptable fill material shall be rejected from the
25 site; and

26 (B) Retain for a minimum of 3 years the following

1 information:

2 (i) The name of the hauler, the name of the
3 generator, and place of origin of the debris or
4 soil;

5 (ii) The approximate weight or volume of the
6 debris or soil; and

7 (iii) The date the debris or soil was received.

8 (d) This Section applies only to clean construction or
9 demolition debris that is not considered "waste" as provided in
10 Section 3.160 of this Act.

11 (e) For purposes of this Section:

12 (1) The term "operator" means a person responsible for
13 the operation and maintenance of a clean construction or
14 demolition debris fill operation.

15 (2) The term "owner" means a person who has any direct
16 or indirect interest in a clean construction or demolition
17 debris fill operation or in land on which a person operates
18 and maintains a clean construction or demolition debris
19 fill operation. A "direct or indirect interest" does not
20 include the ownership of publicly traded stock. The "owner"
21 is the "operator" if there is no other person who is
22 operating and maintaining a clean construction or
23 demolition debris fill operation.

24 (3) The term "clean construction or demolition debris
25 fill operation" means a current or former quarry, mine, or
26 other excavation where clean construction or demolition

1 debris is used as fill material.

2 (4) The term "uncontaminated soil" shall have the same
3 meaning as uncontaminated soil under Section 3.160 of this
4 Act.

5 (f) (1) No later than one year after the effective date of
6 this amendatory Act of the 96th General Assembly, the Agency
7 shall propose to the Board, and, no later than one year after
8 the Board's receipt of the Agency's proposal, the Board shall
9 adopt, rules for the use of clean construction or demolition
10 debris and uncontaminated soil as fill material at clean
11 construction or demolition debris fill operations. The rules
12 must include standards and procedures necessary to protect
13 groundwater, which may include, but shall not be limited to,
14 the following: requirements regarding testing and
15 certification of soil used as fill material, surface water
16 runoff, liners or other protective barriers, monitoring
17 (including, but not limited to, groundwater monitoring),
18 corrective action, recordkeeping, reporting, closure and
19 post-closure care, financial assurance, post-closure land use
20 controls, location standards, and the modification of existing
21 permits to conform to the requirements of this Act and Board
22 rules. The rules may also include limits on the use of
23 recyclable concrete and asphalt as fill material at clean
24 construction or demolition debris fill operations, taking into
25 account factors such as technical feasibility, economic
26 reasonableness, and the availability of markets for such

1 materials.

2 (2) Until the effective date of the Board rules adopted
3 under subdivision (f)(1) of this Section, and in addition to
4 any other requirements, owners and operators of clean
5 construction or demolition debris fill operations must do all
6 of the following in subdivisions (f)(2)(A) through (f)(2)(D) of
7 this Section for all clean construction or demolition debris
8 and uncontaminated soil accepted for use as fill material. The
9 requirements in subdivisions (f)(2)(A) through (f)(2)(D) of
10 this Section shall not limit any rules adopted by the Board.

11 (A) Document the following information for each load of
12 clean construction or demolition debris or uncontaminated
13 soil received: (i) the name of the hauler, the address of
14 the site of origin, and the owner and the operator of the
15 site of origin of the clean construction or demolition
16 debris or uncontaminated soil, (ii) the weight or volume of
17 the clean construction or demolition debris or
18 uncontaminated soil, and (iii) the date the clean
19 construction or demolition debris or uncontaminated soil
20 was received.

21 (B) For all soil, obtain either (i) a certification
22 from the owner or operator of the site from which the soil
23 was removed that the site has never been used for
24 commercial or industrial purposes and is presumed to be
25 uncontaminated soil or (ii) a certification from a licensed
26 Professional Engineer or a professional geologist licensed

1 ~~Professional Geologist~~ that the soil is uncontaminated
2 soil. Certifications required under this subdivision
3 (f)(2)(B) must be on forms and in a format prescribed by
4 the Agency.

5 (C) Confirm that the clean construction or demolition
6 debris or uncontaminated soil was not removed from a site
7 as part of a cleanup or removal of contaminants, including,
8 but not limited to, activities conducted under the
9 Comprehensive Environmental Response, Compensation, and
10 Liability Act of 1980, as amended; as part of a Closure or
11 Corrective Action under the Resource Conservation and
12 Recovery Act, as amended; or under an Agency remediation
13 program, such as the Leaking Underground Storage Tank
14 Program or Site Remediation Program, but excluding sites
15 subject to Section 58.16 of this Act where there is no
16 presence or likely presence of a release or a substantial
17 threat of a release of a regulated substance at, on, or
18 from the real property.

19 (D) Document all activities required under subdivision
20 (f)(2) of this Section. Documentation of any chemical
21 analysis must include, but is not limited to, (i) a copy of
22 the lab analysis, (ii) accreditation status of the
23 laboratory performing the analysis, and (iii)
24 certification by an authorized agent of the laboratory that
25 the analysis has been performed in accordance with the
26 Agency's rules for the accreditation of environmental

1 laboratories and the scope of accreditation.

2 (3) Owners and operators of clean construction or
3 demolition debris fill operations must maintain all
4 documentation required under subdivision (f)(2) of this
5 Section for a minimum of 3 years following the receipt of each
6 load of clean construction or demolition debris or
7 uncontaminated soil, except that documentation relating to an
8 appeal, litigation, or other disputed claim must be maintained
9 until at least 3 years after the date of the final disposition
10 of the appeal, litigation, or other disputed claim. Copies of
11 the documentation must be made available to the Agency and to
12 units of local government for inspection and copying during
13 normal business hours. The Agency may prescribe forms and
14 formats for the documentation required under subdivision
15 (f)(2) of this Section.

16 Chemical analysis conducted under subdivision (f)(2) of
17 this Section must be conducted in accordance with the
18 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
19 Methods for Evaluating Solid Waste, Physical/Chemical
20 Methods", USEPA Publication No. SW-846, as amended.

21 (g)(1) No person shall use soil other than uncontaminated
22 soil as fill material at a clean construction or demolition
23 debris fill operation.

24 (2) No person shall use construction or demolition debris
25 other than clean construction or demolition debris as fill
26 material at a clean construction or demolition debris fill

1 operation.

2 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

3 (415 ILCS 5/22.51a)

4 Sec. 22.51a. Uncontaminated Soil Fill Operations.

5 (a) For purposes of this Section:

6 (1) The term "uncontaminated soil" shall have the same
7 meaning as uncontaminated soil under Section 3.160 of this
8 Act.

9 (2) The term "uncontaminated soil fill operation"
10 means a current or former quarry, mine, or other excavation
11 where uncontaminated soil is used as fill material, but
12 does not include a clean construction or demolition debris
13 fill operation.

14 (b) No person shall use soil other than uncontaminated soil
15 as fill material at an uncontaminated soil fill operation.

16 (c) Owners and operators of uncontaminated soil fill
17 operations must register the fill operations with the Agency.
18 Uncontaminated soil fill operations that received
19 uncontaminated soil prior to the effective date of this
20 amendatory Act of the 96th General Assembly must be registered
21 with the Agency no later than March 31, 2011. Uncontaminated
22 soil fill operations that first receive uncontaminated soil on
23 or after the effective date of this amendatory Act of the 96th
24 General Assembly must be registered with the Agency prior to
25 the receipt of any uncontaminated soil. Registrations must be

1 submitted on forms and in a format prescribed by the Agency.

2 (d) (1) No later than one year after the effective date of
3 this amendatory Act of the 96th General Assembly, the Agency
4 shall propose to the Board, and, no later than one year after
5 the Board's receipt of the Agency's proposal, the Board shall
6 adopt, rules for the use of uncontaminated soil as fill
7 material at uncontaminated soil fill operations. The rules must
8 include standards and procedures necessary to protect
9 groundwater, which shall include, but shall not be limited to,
10 testing and certification of soil used as fill material and
11 requirements for recordkeeping.

12 (2) Until the effective date of the Board rules adopted
13 under subdivision (d) (1) of this Section, owners and operators
14 of uncontaminated soil fill operations must do all of the
15 following in subdivisions (d) (2) (A) through (d) (2) (F) of this
16 Section for all uncontaminated soil accepted for use as fill
17 material. The requirements in subdivisions (d) (2) (A) through
18 (d) (2) (F) of this Section shall not limit any rules adopted by
19 the Board.

20 (A) Document the following information for each load of
21 uncontaminated soil received: (i) the name of the hauler,
22 the address of the site of origin, and the owner and the
23 operator of the site of origin of the uncontaminated soil,
24 (ii) the weight or volume of the uncontaminated soil, and
25 (iii) the date the uncontaminated soil was received.

26 (B) Obtain either (i) a certification from the owner or

1 operator of the site from which the soil was removed that
2 the site has never been used for commercial or industrial
3 purposes and is presumed to be uncontaminated soil or (ii)
4 a certification from a licensed Professional Engineer or a
5 professional geologist ~~licensed Professional Geologist~~
6 that the soil is uncontaminated soil. Certifications
7 required under this subdivision (d) (2) (B) must be on forms
8 and in a format prescribed by the Agency.

9 (C) Confirm that the uncontaminated soil was not
10 removed from a site as part of a cleanup or removal of
11 contaminants, including, but not limited to, activities
12 conducted under the Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980, as amended; as
14 part of a Closure or Corrective Action under the Resource
15 Conservation and Recovery Act, as amended; or under an
16 Agency remediation program, such as the Leaking
17 Underground Storage Tank Program or Site Remediation
18 Program, but excluding sites subject to Section 58.16 of
19 this Act where there is no presence or likely presence of a
20 release or a substantial threat of a release of a regulated
21 substance at, on, or from the real property.

22 (D) Visually inspect each load to confirm that only
23 uncontaminated soil is being accepted for use as fill
24 material.

25 (E) Screen each load of uncontaminated soil using a
26 device that is approved by the Agency and detects volatile

1 organic compounds. Such a device may include, but is not
2 limited to, a photo ionization detector or a flame
3 ionization detector. All screening devices shall be
4 operated and maintained in accordance with the
5 manufacturer's specifications. Unacceptable soil must be
6 rejected from the fill operation.

7 (F) Document all activities required under subdivision
8 (d)(2) of this Section. Documentation of any chemical
9 analysis must include, but is not limited to, (i) a copy of
10 the lab analysis, (ii) accreditation status of the
11 laboratory performing the analysis, and (iii)
12 certification by an authorized agent of the laboratory that
13 the analysis has been performed in accordance with the
14 Agency's rules for the accreditation of environmental
15 laboratories and the scope of accreditation.

16 (3) Owners and operators of uncontaminated soil fill
17 operations must maintain all documentation required under
18 subdivision (d)(2) of this Section for a minimum of 3 years
19 following the receipt of each load of uncontaminated soil,
20 except that documentation relating to an appeal, litigation, or
21 other disputed claim must be maintained until at least 3 years
22 after the date of the final disposition of the appeal,
23 litigation, or other disputed claim. Copies of the
24 documentation must be made available to the Agency and to units
25 of local government for inspection and copying during normal
26 business hours. The Agency may prescribe forms and formats for

1 the documentation required under subdivision (d)(2) of this
2 Section.

3 Chemical analysis conducted under subdivision (d)(2) of
4 this Section must be conducted in accordance with the
5 requirements of 35 Ill. Adm. Code 742, as amended, and "Test
6 Methods for Evaluating Solid Waste, Physical/Chemical
7 Methods", USEPA Publication No. SW-846, as amended.

8 (Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

9 (415 ILCS 5/57.2)

10 Sec. 57.2. Definitions. As used in this Title:

11 "Audit" means a systematic inspection or examination of
12 plans, reports, records, or documents to determine the
13 completeness and accuracy of the data and conclusions contained
14 therein.

15 "Bodily injury" means bodily injury, sickness, or disease
16 sustained by a person, including death at any time, resulting
17 from a release of petroleum from an underground storage tank.

18 "Release" means any spilling, leaking, emitting,
19 discharging, escaping, leaching or disposing of petroleum from
20 an underground storage tank into groundwater, surface water or
21 subsurface soils.

22 "Fill material" means non-native or disturbed materials
23 used to bed and backfill around an underground storage tank.

24 "Fund" means the Underground Storage Tank Fund.

25 "Heating Oil" means petroleum that is No. 1, No. 2, No. 4 -

1 light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6
2 technical grades of fuel oil; and other residual fuel oils
3 including Navy Special Fuel Oil and Bunker C.

4 "Indemnification" means indemnification of an owner or
5 operator for the amount of any judgment entered against the
6 owner or operator in a court of law, for the amount of any
7 final order or determination made against the owner or operator
8 by an agency of State government or any subdivision thereof, or
9 for the amount of any settlement entered into by the owner or
10 operator, if the judgment, order, determination, or settlement
11 arises out of bodily injury or property damage suffered as a
12 result of a release of petroleum from an underground storage
13 tank owned or operated by the owner or operator.

14 "Corrective action" means activities associated with
15 compliance with the provisions of Sections 57.6 and 57.7 of
16 this Title.

17 "Occurrence" means an accident, including continuous or
18 repeated exposure to conditions, that results in a sudden or
19 nonsudden release from an underground storage tank.

20 When used in connection with, or when otherwise relating
21 to, underground storage tanks, the terms "facility", "owner",
22 "operator", "underground storage tank", "(UST)", "petroleum"
23 and "regulated substance" shall have the meanings ascribed to
24 them in Subtitle I of the Hazardous and Solid Waste Amendments
25 of 1984 (P.L. 98-616), of the Resource Conservation and
26 Recovery Act of 1976 (P.L. 94-580); provided however that the

1 term "underground storage tank" shall also mean an underground
2 storage tank used exclusively to store heating oil for
3 consumptive use on the premises where stored and which serves
4 other than a farm or residential unit; provided further however
5 that the term "owner" shall also mean any person who has
6 submitted to the Agency a written election to proceed under
7 this Title and has acquired an ownership interest in a site on
8 which one or more registered tanks have been removed, but on
9 which corrective action has not yet resulted in the issuance of
10 a "no further remediation letter" by the Agency pursuant to
11 this Title.

12 "Licensed Professional Engineer" means a person,
13 corporation, or partnership licensed under the laws of the
14 State of Illinois to practice professional engineering.

15 ~~"Licensed Professional Geologist" means a person licensed~~
16 ~~under the laws of the State of Illinois to practice as a~~
17 ~~professional geologist.~~

18 "Site" means any single location, place, tract of land or
19 parcel of property including contiguous property not separated
20 by a public right-of-way.

21 "Site investigation" means activities associated with
22 compliance with the provisions of subsection (a) of Section
23 57.7.

24 "Property damage" means physical injury to, destruction
25 of, or contamination of tangible property, including all
26 resulting loss of use of that property; or loss of use of

1 tangible property that is not physically injured, destroyed, or
2 contaminated, but has been evacuated, withdrawn from use, or
3 rendered inaccessible because of a release of petroleum from an
4 underground storage tank.

5 "Class I Groundwater" means groundwater that meets the
6 Class I: Potable Resource Groundwater criteria set forth in the
7 Board regulations adopted pursuant to the Illinois Groundwater
8 Protection Act.

9 "Class III Groundwater" means groundwater that meets the
10 Class III: Special Resource Groundwater criteria set forth in
11 the Board regulations adopted pursuant to the Illinois
12 Groundwater Protection Act.

13 (Source: P.A. 94-274, eff. 1-1-06.)

14 (415 ILCS 5/57.8)

15 Sec. 57.8. Underground Storage Tank Fund; payment; options
16 for State payment; deferred correction election to commence
17 corrective action upon availability of funds. If an owner or
18 operator is eligible to access the Underground Storage Tank
19 Fund pursuant to an Office of State Fire Marshal
20 eligibility/deductible final determination letter issued in
21 accordance with Section 57.9, the owner or operator may submit
22 a complete application for final or partial payment to the
23 Agency for activities taken in response to a confirmed release.
24 An owner or operator may submit a request for partial or final
25 payment regarding a site no more frequently than once every 90

1 days.

2 (a) Payment after completion of corrective action
3 measures. The owner or operator may submit an application for
4 payment for activities performed at a site after completion of
5 the requirements of Sections 57.6 and 57.7, or after completion
6 of any other required activities at the underground storage
7 tank site.

8 (1) In the case of any approved plan and budget for
9 which payment is being sought, the Agency shall make a
10 payment determination within 120 days of receipt of the
11 application. Such determination shall be considered a
12 final decision. The Agency's review shall be limited to
13 generally accepted auditing and accounting practices. In
14 no case shall the Agency conduct additional review of any
15 plan which was completed within the budget, beyond auditing
16 for adherence to the corrective action measures in the
17 proposal. If the Agency fails to approve the payment
18 application within 120 days, such application shall be
19 deemed approved by operation of law and the Agency shall
20 proceed to reimburse the owner or operator the amount
21 requested in the payment application. However, in no event
22 shall the Agency reimburse the owner or operator an amount
23 greater than the amount approved in the plan.

24 (2) If sufficient funds are available in the
25 Underground Storage Tank Fund, the Agency shall, within 60
26 days, forward to the Office of the State Comptroller a

1 voucher in the amount approved under the payment
2 application.

3 (3) In the case of insufficient funds, the Agency shall
4 form a priority list for payment and shall notify persons
5 in such priority list monthly of the availability of funds
6 and when payment shall be made. Payment shall be made to
7 the owner or operator at such time as sufficient funds
8 become available for the costs associated with site
9 investigation and corrective action and costs expended for
10 activities performed where no proposal is required, if
11 applicable. Such priority list shall be available to any
12 owner or operator upon request. Priority for payment shall
13 be determined by the date the Agency receives a complete
14 request for partial or final payment. Upon receipt of
15 notification from the Agency that the requirements of this
16 Title have been met, the Comptroller shall make payment to
17 the owner or operator of the amount approved by the Agency,
18 if sufficient money exists in the Fund. If there is
19 insufficient money in the Fund, then payment shall not be
20 made. If the owner or operator appeals a final Agency
21 payment determination and it is determined that the owner
22 or operator is eligible for payment or additional payment,
23 the priority date for the payment or additional payment
24 shall be the same as the priority date assigned to the
25 original request for partial or final payment.

26 (4) Any deductible, as determined pursuant to the

1 Office of the State Fire Marshal's eligibility and
2 deductibility final determination in accordance with
3 Section 57.9, shall be subtracted from any payment invoice
4 paid to an eligible owner or operator. Only one deductible
5 shall apply per underground storage tank site.

6 (5) In the event that costs are or will be incurred in
7 addition to those approved by the Agency, or after payment,
8 the owner or operator may submit successive plans
9 containing amended budgets. The requirements of Section
10 57.7 shall apply to any amended plans.

11 (6) For purposes of this Section, a complete
12 application shall consist of:

13 (A) A certification from a Licensed Professional
14 Engineer or a professional geologist ~~Licensed~~
15 ~~Professional Geologist~~ as required under this Title
16 and acknowledged by the owner or operator.

17 (B) A statement of the amounts approved in the
18 budget and the amounts actually sought for payment
19 along with a certified statement by the owner or
20 operator that the amounts so sought were expended in
21 conformance with the approved budget.

22 (C) A copy of the Office of the State Fire
23 Marshal's eligibility and deductibility determination.

24 (D) Proof that approval of the payment requested
25 will not result in the limitations set forth in
26 subsection (g) of this Section being exceeded.

1 (E) A federal taxpayer identification number and
2 legal status disclosure certification on a form
3 prescribed and provided by the Agency.

4 (F) If the Agency determined under subsection
5 (c)(3) of Section 57.7 of this Act that corrective
6 action must include a project labor agreement, a
7 certification from the owner or operator that the
8 corrective action was (i) performed under a project
9 labor agreement that meets the requirements of Section
10 25 of the Project Labor Agreements Act and (ii)
11 implemented in a manner consistent with the terms and
12 conditions of the Project Labor Agreements Act and in
13 full compliance with all statutes, regulations, and
14 Executive Orders as required under that Act and the
15 Prevailing Wage Act.

16 (b) Commencement of site investigation or corrective
17 action upon availability of funds. The Board shall adopt
18 regulations setting forth procedures based on risk to human
19 health or the environment under which the owner or operator who
20 has received approval for any budget plan submitted pursuant to
21 Section 57.7, and who is eligible for payment from the
22 Underground Storage Tank Fund pursuant to an Office of the
23 State Fire Marshal eligibility and deductibility
24 determination, may elect to defer site investigation or
25 corrective action activities until funds are available in an
26 amount equal to the amount approved in the budget. The

1 regulations shall establish criteria based on risk to human
2 health or the environment to be used for determining on a
3 site-by-site basis whether deferral is appropriate. The
4 regulations also shall establish the minimum investigatory
5 requirements for determining whether the risk based criteria
6 are present at a site considering deferral and procedures for
7 the notification of owners or operators of insufficient funds,
8 Agency review of request for deferral, notification of Agency
9 final decisions, returning deferred sites to active status, and
10 earmarking of funds for payment.

11 (c) When the owner or operator requests indemnification for
12 payment of costs incurred as a result of a release of petroleum
13 from an underground storage tank, if the owner or operator has
14 satisfied the requirements of subsection (a) of this Section,
15 the Agency shall forward a copy of the request to the Attorney
16 General. The Attorney General shall review and approve the
17 request for indemnification if:

18 (1) there is a legally enforceable judgment entered
19 against the owner or operator and such judgment was entered
20 due to harm caused by a release of petroleum from an
21 underground storage tank and such judgment was not entered
22 as a result of fraud; or

23 (2) a settlement with a third party due to a release of
24 petroleum from an underground storage tank is reasonable.

25 (d) Notwithstanding any other provision of this Title, the
26 Agency shall not approve payment to an owner or operator from

1 the Fund for costs of corrective action or indemnification
 2 incurred during a calendar year in excess of the following
 3 aggregate amounts based on the number of petroleum underground
 4 storage tanks owned or operated by such owner or operator in
 5 Illinois.

6 Amount	Number of Tanks
7 \$2,000,000	fewer than 101
8 \$3,000,000	101 or more

9 (1) Costs incurred in excess of the aggregate amounts
 10 set forth in paragraph (1) of this subsection shall not be
 11 eligible for payment in subsequent years.

12 (2) For purposes of this subsection, requests
 13 submitted by any of the agencies, departments, boards,
 14 committees or commissions of the State of Illinois shall be
 15 acted upon as claims from a single owner or operator.

16 (3) For purposes of this subsection, owner or operator
 17 includes (i) any subsidiary, parent, or joint stock company
 18 of the owner or operator and (ii) any company owned by any
 19 parent, subsidiary, or joint stock company of the owner or
 20 operator.

21 (e) Costs of corrective action or indemnification incurred
 22 by an owner or operator which have been paid to an owner or
 23 operator under a policy of insurance, another written
 24 agreement, or a court order are not eligible for payment under
 25 this Section. An owner or operator who receives payment under a
 26 policy of insurance, another written agreement, or a court

1 order shall reimburse the State to the extent such payment
2 covers costs for which payment was received from the Fund. Any
3 monies received by the State under this subsection (e) shall be
4 deposited into the Fund.

5 (f) (Blank.)

6 (g) The Agency shall not approve any payment from the Fund
7 to pay an owner or operator:

8 (1) for costs of corrective action incurred by such
9 owner or operator in an amount in excess of \$1,500,000 per
10 occurrence; and

11 (2) for costs of indemnification of such owner or
12 operator in an amount in excess of \$1,500,000 per
13 occurrence.

14 (h) Payment of any amount from the Fund for corrective
15 action or indemnification shall be subject to the State
16 acquiring by subrogation the rights of any owner, operator, or
17 other person to recover the costs of corrective action or
18 indemnification for which the Fund has compensated such owner,
19 operator, or person from the person responsible or liable for
20 the release.

21 (i) If the Agency refuses to pay or authorizes only a
22 partial payment, the affected owner or operator may petition
23 the Board for a hearing in the manner provided for the review
24 of permit decisions in Section 40 of this Act.

25 (j) Costs of corrective action or indemnification incurred
26 by an owner or operator prior to July 28, 1989, shall not be

1 eligible for payment or reimbursement under this Section.

2 (k) The Agency shall not pay costs of corrective action or
3 indemnification incurred before providing notification of the
4 release of petroleum in accordance with the provisions of this
5 Title.

6 (l) Corrective action does not include legal defense costs.
7 Legal defense costs include legal costs for seeking payment
8 under this Title unless the owner or operator prevails before
9 the Board in which case the Board may authorize payment of
10 legal fees.

11 (m) The Agency may apportion payment of costs for plans
12 submitted under Section 57.7 if:

13 (1) the owner or operator was deemed eligible to access
14 the Fund for payment of corrective action costs for some,
15 but not all, of the underground storage tanks at the site;
16 and

17 (2) the owner or operator failed to justify all costs
18 attributable to each underground storage tank at the site.

19 (n) The Agency shall not pay costs associated with a
20 corrective action plan incurred after the Agency provides
21 notification to the owner or operator pursuant to item (7) of
22 subsection (b) of Section 57.7 that a revised corrective action
23 plan is required. Costs associated with any subsequently
24 approved corrective action plan shall be eligible for
25 reimbursement if they meet the requirements of this Title.

26 (Source: P.A. 98-109, eff. 7-25-13.)

1 (415 ILCS 5/57.10)

2 Sec. 57.10. Professional Engineer or professional
3 geologist ~~Professional Geologist~~ certification; presumptions
4 against liability.

5 (a) Within 120 days of the Agency's receipt of a corrective
6 action completion report, the Agency shall issue to the owner
7 or operator a "no further remediation letter" unless the Agency
8 has requested a modification, issued a rejection under
9 subsection (d) of this Section, or the report has been rejected
10 by operation of law.

11 (b) By certifying such a statement, a Licensed Professional
12 Engineer or a professional geologist ~~Licensed Professional~~
13 ~~Geologist~~ shall in no way be liable thereon, unless the
14 engineer or geologist gave such certification despite his or
15 her actual knowledge that the performed measures were not in
16 compliance with applicable statutory or regulatory
17 requirements or any plan submitted to the Agency.

18 (c) The Agency's issuance of a no further remediation
19 letter shall signify, based on the certification of the
20 Licensed Professional Engineer, that:

21 (1) all statutory and regulatory corrective action
22 requirements applicable to the occurrence have been
23 complied with;

24 (2) all corrective action concerning the remediation
25 of the occurrence has been completed; and

1 (3) no further corrective action concerning the
2 occurrence is necessary for the protection of human health,
3 safety and the environment.

4 This subsection (c) does not apply to off-site contamination
5 related to the occurrence that has not been remediated due to
6 denial of access to the off-site property.

7 (d) The no further remediation letter issued under this
8 Section shall apply in favor of the following parties:

9 (1) The owner or operator to whom the letter was
10 issued.

11 (2) Any parent corporation or subsidiary of such owner
12 or operator.

13 (3) Any co-owner or co-operator, either by joint
14 tenancy, right-of-survivorship, or any other party sharing
15 a legal relationship with the owner or operator to whom the
16 letter is issued.

17 (4) Any holder of a beneficial interest of a land trust
18 or inter vivos trust whether revocable or irrevocable.

19 (5) Any mortgagee or trustee of a deed of trust of such
20 owner or operator.

21 (6) Any successor-in-interest of such owner or
22 operator.

23 (7) Any transferee of such owner or operator whether
24 the transfer was by sale, bankruptcy proceeding,
25 partition, dissolution of marriage, settlement or
26 adjudication of any civil action, charitable gift, or

1 bequest.

2 (8) Any heir or devisee or such owner or operator.

3 (9) An owner of a parcel of real property to the extent
4 that the no further remediation letter under subsection (c)
5 of this Section applies to the occurrence on that parcel.

6 (e) If the Agency notifies the owner or operator that the
7 "no further remediation" letter has been rejected, the grounds
8 for such rejection shall be described in the notice. Such a
9 decision shall be a final determination which may be appealed
10 by the owner or operator.

11 (f) The Board shall adopt rules setting forth the criteria
12 under which the Agency may require an owner or operator to
13 conduct further investigation or remediation related to a
14 release for which a no further remediation letter has been
15 issued.

16 (g) Holders of security interests in sites subject to the
17 requirements of this Title XVI shall be entitled to the same
18 protections and subject to the same responsibilities provided
19 under general regulations promulgated under Subtitle I of the
20 Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of
21 the Resource Conservation and Recovery Act of 1976 (P.L.
22 94-580).

23 (Source: P.A. 94-276, eff. 1-1-06.)

24 (415 ILCS 5/58.2)

25 Sec. 58.2. Definitions. The following words and phrases

1 when used in this Title shall have the meanings given to them
2 in this Section unless the context clearly indicates otherwise:

3 "Agrichemical facility" means a site on which agricultural
4 pesticides are stored or handled, or both, in preparation for
5 end use, or distributed. The term does not include basic
6 manufacturing facility sites.

7 "ASTM" means the American Society for Testing and
8 Materials.

9 "Area background" means concentrations of regulated
10 substances that are consistently present in the environment in
11 the vicinity of a site that are the result of natural
12 conditions or human activities, and not the result solely of
13 releases at the site.

14 "Brownfields site" or "brownfields" means a parcel of real
15 property, or a portion of the parcel, that has actual or
16 perceived contamination and an active potential for
17 redevelopment.

18 "Class I groundwater" means groundwater that meets the
19 Class I Potable Resource groundwater criteria set forth in the
20 Board rules adopted under the Illinois Groundwater Protection
21 Act.

22 "Class III groundwater" means groundwater that meets the
23 Class III Special Resource Groundwater criteria set forth in
24 the Board rules adopted under the Illinois Groundwater
25 Protection Act.

26 "Carcinogen" means a contaminant that is classified as a

1 Category A1 or A2 Carcinogen by the American Conference of
2 Governmental Industrial Hygienists; or a Category 1 or 2A/2B
3 Carcinogen by the World Health Organizations International
4 Agency for Research on Cancer; or a "Human Carcinogen" or
5 "Anticipated Human Carcinogen" by the United States Department
6 of Health and Human Service National Toxicological Program; or
7 a Category A or B1/B2 Carcinogen by the United States
8 Environmental Protection Agency in Integrated Risk Information
9 System or a Final Rule issued in a Federal Register notice by
10 the USEPA as of the effective date of this amendatory Act of
11 1995.

12 "Licensed Professional Engineer" (LPE) means a person,
13 corporation, or partnership licensed under the laws of this
14 State to practice professional engineering.

15 ~~"Licensed Professional Geologist" means a person licensed~~
16 ~~under the laws of the State of Illinois to practice as a~~
17 ~~professional geologist.~~

18 "RELPEG" means a Licensed Professional Engineer or a
19 professional geologist ~~Licensed Professional Geologist~~ engaged
20 in review and evaluation under this Title.

21 "Man-made pathway" means constructed routes that may allow
22 for the transport of regulated substances including, but not
23 limited to, sewers, utility lines, utility vaults, building
24 foundations, basements, crawl spaces, drainage ditches, or
25 previously excavated and filled areas.

26 "Municipality" means an incorporated city, village, or

1 town in this State. "Municipality" does not mean a township,
2 town when that term is used as the equivalent of a township,
3 incorporated town that has superseded a civil township, county,
4 or school district, park district, sanitary district, or
5 similar governmental district.

6 "Natural pathway" means natural routes for the transport of
7 regulated substances including, but not limited to, soil,
8 groundwater, sand seams and lenses, and gravel seams and
9 lenses.

10 "Person" means individual, trust, firm, joint stock
11 company, joint venture, consortium, commercial entity,
12 corporation (including a government corporation), partnership,
13 association, State, municipality, commission, political
14 subdivision of a State, or any interstate body including the
15 United States Government and each department, agency, and
16 instrumentality of the United States.

17 "Regulated substance" means any hazardous substance as
18 defined under Section 101(14) of the Comprehensive
19 Environmental Response, Compensation, and Liability Act of
20 1980 (P.L. 96-510) and petroleum products including crude oil
21 or any fraction thereof, natural gas, natural gas liquids,
22 liquefied natural gas, or synthetic gas usable for fuel (or
23 mixtures of natural gas and such synthetic gas).

24 "Remedial action" means activities associated with
25 compliance with the provisions of Sections 58.6 and 58.7.

26 "Remediation Applicant" (RA) means any person seeking to

1 perform or performing investigative or remedial activities
2 under this Title, including the owner or operator of the site
3 or persons authorized by law or consent to act on behalf of or
4 in lieu of the owner or operator of the site.

5 "Remediation costs" means reasonable costs paid for
6 investigating and remediating regulated substances of concern
7 consistent with the remedy selected for a site.

8 For purposes of Section 58.14, "remediation costs" shall
9 not include costs incurred prior to January 1, 1998, costs
10 incurred after the issuance of a No Further Remediation Letter
11 under Section 58.10 of this Act, or costs incurred more than 12
12 months prior to acceptance into the Site Remediation Program.

13 For the purpose of Section 58.14a, "remediation costs" do
14 not include any costs incurred before January 1, 2007, any
15 costs incurred after the issuance of a No Further Remediation
16 Letter under Section 58.10, or any costs incurred more than 12
17 months before acceptance into the Site Remediation Program.

18 "Residential property" means any real property that is used
19 for habitation by individuals and other property uses defined
20 by Board rules such as education, health care, child care and
21 related uses.

22 "River Edge Redevelopment Zone" has the meaning set forth
23 under the River Edge Redevelopment Zone Act.

24 "Site" means any single location, place, tract of land or
25 parcel of property, or portion thereof, including contiguous
26 property separated by a public right-of-way.

1 "Regulated substance of concern" means any contaminant
2 that is expected to be present at the site based upon past and
3 current land uses and associated releases that are known to the
4 Remediation Applicant based upon reasonable inquiry.

5 (Source: P.A. 95-454, eff. 8-27-07.)

6 (415 ILCS 5/58.6)

7 Sec. 58.6. Remedial investigations and reports.

8 (a) Any RA who proceeds under this Title may elect to seek
9 review and approval for any of the remediation objectives
10 provided in Section 58.5 for any or all regulated substances of
11 concern. The RA shall conduct investigations and remedial
12 activities for regulated substances of concern and prepare
13 plans and reports in accordance with this Section and rules
14 adopted hereunder. The RA shall submit the plans and reports
15 for review and approval in accordance with Section 58.7. All
16 investigations, plans, and reports conducted or prepared under
17 this Section shall be under the supervision of a Licensed
18 Professional Engineer (LPE) or, in the case of a site
19 investigation only, a professional geologist ~~Licensed~~
20 ~~Professional Geologist~~ in accordance with the requirements of
21 this Title.

22 (b) (1) Site investigation and Site Investigation Report.

23 The RA shall conduct a site investigation to determine the
24 significant physical features of the site and vicinity that
25 may affect contaminant transport and risk to human health,

1 safety, and the environment and to determine the nature,
2 concentration, direction and rate of movement, and extent
3 of the contamination at the site.

4 (2) The RA shall compile the results of the
5 investigations into a Site Investigation Report. At a
6 minimum, the reports shall include the following, as
7 applicable:

8 (A) Executive summary;

9 (B) Site history;

10 (C) Site-specific sampling methods and results;

11 (D) Documentation of field activities, including
12 quality assurance project plan;

13 (E) Interpretation of results; and

14 (F) Conclusions.

15 (c) Remediation Objectives Report.

16 (1) If a RA elects to determine remediation objectives
17 appropriate for the site using the Tier II or Tier III
18 procedures under subsection (d) of Section 58.5, the RA
19 shall develop such remediation objectives based on
20 site-specific information. In support of such remediation
21 objectives, the RA shall prepare a Remediation Objectives
22 Report demonstrating how the site-specific objectives were
23 calculated or otherwise determined.

24 (2) If a RA elects to determine remediation objectives
25 appropriate for the site using the area background
26 procedures under subsection (b) of Section 58.5, the RA

1 shall develop such remediation objectives based on
2 site-specific literature review, sampling protocol, or
3 appropriate statistical methods in accordance with Board
4 rules. In support of such remediation objectives, the RA
5 shall prepare a Remediation Objectives Report
6 demonstrating how the area background remediation
7 objectives were determined.

8 (d) Remedial Action Plan. If the approved remediation
9 objectives for any regulated substance established under
10 Section 58.5 are less than the levels existing at the site
11 prior to any remedial action, the RA shall prepare a Remedial
12 Action Plan. The Remedial Action Plan shall describe the
13 selected remedy and evaluate its ability and effectiveness to
14 achieve the remediation objectives approved for the site. At a
15 minimum, the reports shall include the following, as
16 applicable:

- 17 (1) Executive summary;
- 18 (2) Statement of remediation objectives;
- 19 (3) Remedial technologies selected;
- 20 (4) Confirmation sampling plan;
- 21 (5) Current and projected future use of the property;

22 and

- 23 (6) Applicable preventive, engineering, and
24 institutional controls including long-term reliability,
25 operating, and maintenance plans, and monitoring
26 procedures.

1 (e) Remedial Action Completion Report.

2 (1) Upon completion of the Remedial Action Plan, the RA
3 shall prepare a Remedial Action Completion Report. The
4 report shall demonstrate whether the remedial action was
5 completed in accordance with the approved Remedial Action
6 Plan and whether the remediation objectives, as well as any
7 other requirements of the plan, have been attained.

8 (2) If the approved remediation objectives for the
9 regulated substances of concern established under Section
10 58.5 are equal to or above the levels existing at the site
11 prior to any remedial action, notification and
12 documentation of such shall constitute the entire Remedial
13 Action Completion Report for purposes of this Title.

14 (f) Ability to proceed. The RA may elect to prepare and
15 submit for review and approval any and all reports or plans
16 required under the provisions of this Section individually,
17 following completion of each such activity; concurrently,
18 following completion of all activities; or in any other
19 combination. In any event, the review and approval process
20 shall proceed in accordance with Section 58.7 and rules adopted
21 thereunder.

22 (g) Nothing in this Section shall prevent an RA from
23 implementing or conducting an interim or any other remedial
24 measure prior to election to proceed under Section 58.6.

25 (h) In accordance with Section 58.11, the Agency shall
26 propose and the Board shall adopt rules to carry out the

1 purposes of this Section.

2 (Source: P.A. 92-735, eff. 7-25-02.)

3 (415 ILCS 5/58.7)

4 Sec. 58.7. Review and approvals.

5 (a) Requirements. All plans and reports that are submitted
6 pursuant to this Title shall be submitted for review or
7 approval in accordance with this Section.

8 (b) Review and evaluation by the Agency.

9 (1) Except for sites excluded under subdivision (a) (2)
10 of Section 58.1, the Agency shall, subject to available
11 resources, agree to provide review and evaluation services
12 for activities carried out pursuant to this Title for which
13 the RA requested the services in writing. As a condition
14 for providing such services, the Agency may require that
15 the RA for a site:

16 (A) Conform with the procedures of this Title;

17 (B) Allow for or otherwise arrange site visits or
18 other site evaluation by the Agency when so requested;

19 (C) Agree to perform the Remedial Action Plan as
20 approved under this Title;

21 (D) Agree to pay any reasonable costs incurred and
22 documented by the Agency in providing such services;

23 (E) Make an advance partial payment to the Agency
24 for such anticipated services in an amount, acceptable
25 to the Agency, but not to exceed \$5,000 or one-half of

1 the total anticipated costs of the Agency, whichever
2 sum is less; and

3 (F) Demonstrate, if necessary, authority to act on
4 behalf of or in lieu of the owner or operator.

5 (2) Any moneys received by the State for costs incurred
6 by the Agency in performing review or evaluation services
7 for actions conducted pursuant to this Title shall be
8 deposited in the Hazardous Waste Fund.

9 (3) An RA requesting services under subdivision (b) (1)
10 of this Section may, at any time, notify the Agency, in
11 writing, that Agency services previously requested are no
12 longer wanted. Within 180 days after receipt of the notice,
13 the Agency shall provide the RA with a final invoice for
14 services provided until the date of such notifications.

15 (4) The Agency may invoice or otherwise request or
16 demand payment from a RA for costs incurred by the Agency
17 in performing review or evaluation services for actions by
18 the RA at sites only if:

19 (A) The Agency has incurred costs in performing
20 response actions, other than review or evaluation
21 services, due to the failure of the RA to take response
22 action in accordance with a notice issued pursuant to
23 this Act;

24 (B) The RA has agreed in writing to the payment of
25 such costs;

26 (C) The RA has been ordered to pay such costs by

1 the Board or a court of competent jurisdiction pursuant
2 to this Act; or

3 (D) The RA has requested or has consented to Agency
4 review or evaluation services under subdivision
5 (b) (1) of this Section.

6 (5) The Agency may, subject to available resources,
7 agree to provide review and evaluation services for
8 response actions if there is a written agreement among
9 parties to a legal action or if a notice to perform a
10 response action has been issued by the Agency.

11 (c) Review and evaluation by a Licensed Professional
12 Engineer or a professional geologist ~~Licensed Professional~~
13 ~~Geologist~~. A RA may elect to contract with a Licensed
14 Professional Engineer or, in the case of a site investigation
15 report only, a professional geologist ~~Licensed Professional~~
16 ~~Geologist~~, who will perform review and evaluation services on
17 behalf of and under the direction of the Agency relative to the
18 site activities.

19 (1) Prior to entering into the contract with the
20 RELPEG, the RA shall notify the Agency of the RELPEG to be
21 selected. The Agency and the RA shall discuss the potential
22 terms of the contract.

23 (2) At a minimum, the contract with the RELPEG shall
24 provide that the RELPEG will submit any reports directly to
25 the Agency, will take his or her directions for work
26 assignments from the Agency, and will perform the assigned

1 work on behalf of the Agency.

2 (3) Reasonable costs incurred by the Agency shall be
3 paid by the RA directly to the Agency in accordance with
4 the terms of the review and evaluation services agreement
5 entered into under subdivision (b) (1) of Section 58.7.

6 (4) In no event shall the RELPEG acting on behalf of
7 the Agency be an employee of the RA or the owner or
8 operator of the site or be an employee of any other person
9 the RA has contracted to provide services relative to the
10 site.

11 (d) Review and approval. All reviews required under this
12 Title shall be carried out by the Agency or a RELPEG, both
13 under the direction of a Licensed Professional Engineer or, in
14 the case of the review of a site investigation only, a
15 professional geologist ~~Licensed Professional Geologist~~.

16 (1) All review activities conducted by the Agency or a
17 RELPEG shall be carried out in conformance with this Title
18 and rules promulgated under Section 58.11.

19 (2) Subject to the limitations in subsection (c) and
20 this subsection (d), the specific plans, reports, and
21 activities that the Agency or a RELPEG may review include:

22 (A) Site Investigation Reports and related
23 activities;

24 (B) Remediation Objectives Reports;

25 (C) Remedial Action Plans and related activities;

26 and

1 (D) Remedial Action Completion Reports and related
2 activities.

3 (3) Only the Agency shall have the authority to
4 approve, disapprove, or approve with conditions a plan or
5 report as a result of the review process including those
6 plans and reports reviewed by a RELPEG. If the Agency
7 disapproves a plan or report or approves a plan or report
8 with conditions, the written notification required by
9 subdivision (d) (4) of this Section shall contain the
10 following information, as applicable:

11 (A) An explanation of the Sections of this Title
12 that may be violated if the plan or report was
13 approved;

14 (B) An explanation of the provisions of the rules
15 promulgated under this Title that may be violated if
16 the plan or report was approved;

17 (C) An explanation of the specific type of
18 information, if any, that the Agency deems the
19 applicant did not provide the Agency;

20 (D) A statement of specific reasons why the Title
21 and regulations might not be met if the plan or report
22 were approved; and

23 (E) An explanation of the reasons for conditions if
24 conditions are required.

25 (4) Upon approving, disapproving, or approving with
26 conditions a plan or report, the Agency shall notify the RA

1 in writing of its decision. In the case of approval or
2 approval with conditions of a Remedial Action Completion
3 Report, the Agency shall prepare a No Further Remediation
4 Letter that meets the requirements of Section 58.10 and
5 send a copy of the letter to the RA.

6 (5) All reviews undertaken by the Agency or a RELPEG
7 shall be completed and the decisions communicated to the RA
8 within 60 days of the request for review or approval. The
9 RA may waive the deadline upon a request from the Agency.
10 If the Agency disapproves or approves with conditions a
11 plan or report or fails to issue a final decision within
12 the 60 day period and the RA has not agreed to a waiver of
13 the deadline, the RA may, within 35 days, file an appeal to
14 the Board. Appeals to the Board shall be in the manner
15 provided for the review of permit decisions in Section 40
16 of this Act.

17 (e) Standard of review. In making determinations, the
18 following factors, and additional factors as may be adopted by
19 the Board in accordance with Section 58.11, shall be considered
20 by the Agency when reviewing or approving plans, reports, and
21 related activities, or the RELPEG, when reviewing plans,
22 reports, and related activities:

23 (1) Site Investigation Reports and related activities:
24 Whether investigations have been conducted and the results
25 compiled in accordance with the appropriate procedures and
26 whether the interpretations and conclusions reached are

1 supported by the information gathered. In making the
2 determination, the following factors shall be considered:

3 (A) The adequacy of the description of the site and
4 site characteristics that were used to evaluate the
5 site;

6 (B) The adequacy of the investigation of potential
7 pathways and risks to receptors identified at the site;
8 and

9 (C) The appropriateness of the sampling and
10 analysis used.

11 (2) Remediation Objectives Reports: Whether the
12 remediation objectives are consistent with the
13 requirements of the applicable method for selecting or
14 determining remediation objectives under Section 58.5. In
15 making the determination, the following factors shall be
16 considered:

17 (A) If the objectives were based on the
18 determination of area background levels under
19 subsection (b) of Section 58.5, whether the review of
20 current and historic conditions at or in the immediate
21 vicinity of the site has been thorough and whether the
22 site sampling and analysis has been performed in a
23 manner resulting in accurate determinations;

24 (B) If the objectives were calculated on the basis
25 of predetermined equations using site specific data,
26 whether the calculations were accurately performed and

1 whether the site specific data reflect actual site
2 conditions; and

3 (C) If the objectives were determined using a site
4 specific risk assessment procedure, whether the
5 procedure used is nationally recognized and accepted,
6 whether the calculations were accurately performed,
7 and whether the site specific data reflect actual site
8 conditions.

9 (3) Remedial Action Plans and related activities:
10 Whether the plan will result in compliance with this Title,
11 and rules adopted under it and attainment of the applicable
12 remediation objectives. In making the determination, the
13 following factors shall be considered:

14 (A) The likelihood that the plan will result in the
15 attainment of the applicable remediation objectives;

16 (B) Whether the activities proposed are consistent
17 with generally accepted engineering practices; and

18 (C) The management of risk relative to any
19 remaining contamination, including but not limited to,
20 provisions for the long-term enforcement, operation,
21 and maintenance of institutional and engineering
22 controls, if relied on.

23 (4) Remedial Action Completion Reports and related
24 activities: Whether the remedial activities have been
25 completed in accordance with the approved Remedial Action
26 Plan and whether the applicable remediation objectives

1 have been attained.

2 (f) All plans and reports submitted for review shall
3 include a Licensed Professional Engineer's certification that
4 all investigations and remedial activities were carried out
5 under his or her direction and, to the best of his or her
6 knowledge and belief, the work described in the plan or report
7 has been completed in accordance with generally accepted
8 engineering practices, and the information presented is
9 accurate and complete. In the case of a site investigation
10 report prepared or supervised by a professional geologist
11 ~~Licensed Professional Geologist~~, the required certification
12 may be made by the professional geologist ~~Licensed Professional~~
13 ~~Geologist~~ (rather than a Licensed Professional Engineer) and
14 based upon generally accepted principles of professional
15 geology.

16 (g) In accordance with Section 58.11, the Agency shall
17 propose and the Board shall adopt rules to carry out the
18 purposes of this Section. At a minimum, the rules shall detail
19 the types of services the Agency may provide in response to
20 requests under subdivision (b) (1) of this Section and the
21 recordkeeping it will utilize in documenting to the RA the
22 costs incurred by the Agency in providing such services.

23 (h) Public participation.

24 (1) The Agency shall develop guidance to assist RA's in
25 the implementation of a community relations plan to address
26 activity at sites undergoing remedial action pursuant to

1 this Title.

2 (2) The RA may elect to enter into a services agreement
3 with the Agency for Agency assistance in community outreach
4 efforts.

5 (3) The Agency shall maintain a registry listing those
6 sites undergoing remedial action pursuant to this Title.

7 (4) Notwithstanding any provisions of this Section,
8 the RA of a site undergoing remedial activity pursuant to
9 this Title may elect to initiate a community outreach
10 effort for the site.

11 (Source: P.A. 95-331, eff. 8-21-07.)

12 Section 90. The Unified Code of Corrections is amended by
13 changing Section 5-5-5 as follows:

14 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

15 Sec. 5-5-5. Loss and Restoration of Rights.

16 (a) Conviction and disposition shall not entail the loss by
17 the defendant of any civil rights, except under this Section
18 and Sections 29-6 and 29-10 of The Election Code, as now or
19 hereafter amended.

20 (b) A person convicted of a felony shall be ineligible to
21 hold an office created by the Constitution of this State until
22 the completion of his sentence.

23 (c) A person sentenced to imprisonment shall lose his right
24 to vote until released from imprisonment.

1 (d) On completion of sentence of imprisonment or upon
2 discharge from probation, conditional discharge or periodic
3 imprisonment, or at any time thereafter, all license rights and
4 privileges granted under the authority of this State which have
5 been revoked or suspended because of conviction of an offense
6 shall be restored unless the authority having jurisdiction of
7 such license rights finds after investigation and hearing that
8 restoration is not in the public interest. This paragraph (d)
9 shall not apply to the suspension or revocation of a license to
10 operate a motor vehicle under the Illinois Vehicle Code.

11 (e) Upon a person's discharge from incarceration or parole,
12 or upon a person's discharge from probation or at any time
13 thereafter, the committing court may enter an order certifying
14 that the sentence has been satisfactorily completed when the
15 court believes it would assist in the rehabilitation of the
16 person and be consistent with the public welfare. Such order
17 may be entered upon the motion of the defendant or the State or
18 upon the court's own motion.

19 (f) Upon entry of the order, the court shall issue to the
20 person in whose favor the order has been entered a certificate
21 stating that his behavior after conviction has warranted the
22 issuance of the order.

23 (g) This Section shall not affect the right of a defendant
24 to collaterally attack his conviction or to rely on it in bar
25 of subsequent proceedings for the same offense.

26 (h) No application for any license specified in subsection

1 (i) of this Section granted under the authority of this State
2 shall be denied by reason of an eligible offender who has
3 obtained a certificate of relief from disabilities, as defined
4 in Article 5.5 of this Chapter, having been previously
5 convicted of one or more criminal offenses, or by reason of a
6 finding of lack of "good moral character" when the finding is
7 based upon the fact that the applicant has previously been
8 convicted of one or more criminal offenses, unless:

9 (1) there is a direct relationship between one or more
10 of the previous criminal offenses and the specific license
11 sought; or

12 (2) the issuance of the license would involve an
13 unreasonable risk to property or to the safety or welfare
14 of specific individuals or the general public.

15 In making such a determination, the licensing agency shall
16 consider the following factors:

17 (1) the public policy of this State, as expressed in
18 Article 5.5 of this Chapter, to encourage the licensure and
19 employment of persons previously convicted of one or more
20 criminal offenses;

21 (2) the specific duties and responsibilities
22 necessarily related to the license being sought;

23 (3) the bearing, if any, the criminal offenses or
24 offenses for which the person was previously convicted will
25 have on his or her fitness or ability to perform one or
26 more such duties and responsibilities;

1 (4) the time which has elapsed since the occurrence of
2 the criminal offense or offenses;

3 (5) the age of the person at the time of occurrence of
4 the criminal offense or offenses;

5 (6) the seriousness of the offense or offenses;

6 (7) any information produced by the person or produced
7 on his or her behalf in regard to his or her rehabilitation
8 and good conduct, including a certificate of relief from
9 disabilities issued to the applicant, which certificate
10 shall create a presumption of rehabilitation in regard to
11 the offense or offenses specified in the certificate; and

12 (8) the legitimate interest of the licensing agency in
13 protecting property, and the safety and welfare of specific
14 individuals or the general public.

15 (i) A certificate of relief from disabilities shall be
16 issued only for a license or certification issued under the
17 following Acts:

18 (1) the Animal Welfare Act; except that a certificate
19 of relief from disabilities may not be granted to provide
20 for the issuance or restoration of a license under the
21 Animal Welfare Act for any person convicted of violating
22 Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane
23 Care for Animals Act or Section 26-5 or 48-1 of the
24 Criminal Code of 1961 or the Criminal Code of 2012;

25 (2) the Illinois Athletic Trainers Practice Act;

26 (3) the Barber, Cosmetology, Esthetics, Hair Braiding,

- 1 and Nail Technology Act of 1985;
- 2 (4) the Boiler and Pressure Vessel Repairer Regulation
3 Act;
- 4 (5) the Boxing and Full-contact Martial Arts Act;
- 5 (6) the Illinois Certified Shorthand Reporters Act of
6 1984;
- 7 (7) the Illinois Farm Labor Contractor Certification
8 Act;
- 9 (8) the Interior Design Title Act;
- 10 (9) the Illinois Professional Land Surveyor Act of
11 1989;
- 12 (10) (blank) ~~the Illinois Landscape Architecture Act~~
13 ~~of 1989;~~
- 14 (11) the Marriage and Family Therapy Licensing Act;
- 15 (12) the Private Employment Agency Act;
- 16 (13) the Professional Counselor and Clinical
17 Professional Counselor Licensing and Practice Act;
- 18 (14) the Real Estate License Act of 2000;
- 19 (15) the Illinois Roofing Industry Licensing Act;
- 20 (16) the Professional Engineering Practice Act of
21 1989;
- 22 (17) the Water Well and Pump Installation Contractor's
23 License Act;
- 24 (18) (blank) ~~the Electrologist Licensing Act;~~
- 25 (19) the Auction License Act;
- 26 (20) the Illinois Architecture Practice Act of 1989;

- 1 (21) the Dietitian Nutritionist Practice Act;
- 2 (22) the Environmental Health Practitioner Licensing
- 3 Act;
- 4 (23) the Funeral Directors and Embalmers Licensing
- 5 Code;
- 6 (24) (blank) ~~the Land Sales Registration Act of 1999;~~
- 7 (25) (blank) ~~the Professional Geologist Licensing Act;~~
- 8 (26) the Illinois Public Accounting Act; and
- 9 (27) the Structural Engineering Practice Act of 1989.

10 (Source: P.A. 97-119, eff. 7-14-11; 97-706, eff. 6-25-12;

11 97-1108, eff. 1-1-13; 97-1141, eff. 12-28-12; 97-1150, eff.

12 1-25-13; 98-756, eff. 7-16-14.)

13 (765 ILCS 86/Act rep.)

14 Section 95. The Land Sales Registration Act of 1999 is

15 repealed.

16 (765 ILCS 101/Act rep.)

17 Section 100. The Real Estate Timeshare Act of 1999 is

18 repealed.

19 Section 999. Effective date. This Act takes effect upon

20 becoming law.

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8	70 ILCS 1205/8-50	
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10	210 ILCS 25/7-101	from Ch. 111 1/2, par. 627-101
11	225 ILCS 135/Act rep.	
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13	225 ILCS 401/Act rep.	
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- 1 410 ILCS 513/25
- 2 415 ILCS 5/22.51
- 3 415 ILCS 5/22.51a
- 4 415 ILCS 5/57.2
- 5 415 ILCS 5/57.8
- 6 415 ILCS 5/57.10
- 7 415 ILCS 5/58.2
- 8 415 ILCS 5/58.6
- 9 415 ILCS 5/58.7
- 10 730 ILCS 5/5-5-5 from Ch. 38, par. 1005-5-5
- 11 765 ILCS 86/Act rep.
- 12 765 ILCS 101/Act rep.